

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.gov.



AMENDED AGENDA

(Amended 2/25/25 to add new item, C-3 and Closed Session Time Changed to 4:30 PM)

OXNARD CITY COUNCIL

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

OXNARD FINANCING AUTHORITY

OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

March 4, 2025

Closed Session - 4:30 PM

Regular Meeting - 6:00 PM

Zoom details to call-in for public comment during a meeting:

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 867 2686 7816
3. Passcode: 398669

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

IN ACCORDANCE WITH ASSEMBLY BILL 2449, MEMBERS OF THE LEGISLATIVE BODY MAY MEET IN-PERSON OR REMOTELY. TO PARTICIPATE REMOTELY VISIT WWW.OXNARD.GOV.

To find out how you may provide public comment, please refer to the instructions below or at [www.https://www.oxnard.org/city-meetings/](https://www.oxnard.org/city-meetings/).

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. Submit a request to speak remotely by 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/citymeetings.
 - b. Submit an email to cityclerk@oxnard.org by 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.
 - c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item Time Estimates include: (Minutes for Presentation + Council Discussion + Public Comment)

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

- a. Follow Zoom details listed above.
- b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

Please review the Zoom instructions on the registration page to help ensure there are no technical difficulties during your comments and help you understand public comment procedures using Zoom. Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and Housing Authority
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL
2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

At this time, a person may address the legislative body only on matters appearing on the closed session agenda. The presiding officer shall limit public comments to three minutes.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: A portion of Northwest corner of Cooper Road and Bonita Avenue (APN 201013201)
Agency Negotiator: Michael L. Wolfe, Public Works Director and Hamner, Jewel & Associates
Negotiating Party: Oxnard School District
Under Negotiation: Price and terms of payment
Legislative Body: City Council
2. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Name of case: *Lucia Aldana, et al. v. City of Oxnard, et al.*
Ventura County Superior Court, Case No. 56-2020-00547139-CU-PO-VTA
Legislative Body: City Council
3. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(4))
Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case regarding the Shoals Energy Storage Project (County of Ventura Permit No. PL24-0024).
Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating March 2025 as "Women's History Month."

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. After 30 minutes, if all speakers have not had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

H. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

I. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Oxnard Housing Authority Board of Commissioners approve the minutes of the February 4, 2025 regular meeting as presented.

Legislative Body: Oxnard Housing Authority

Contact: Luly Lopez, (805) 385-7805

2. City Attorney Department

SUBJECT: Adoption of Ordinance Implementing Specific Provisions of the Court of Appeal's Decision Regarding the City Treasurer

RECOMMENDATION: That the City Council adopt an ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER.

(This item did not originate in Committee)

Legislative Body: City Council

Contact: Stephen Fischer, (805) 385-7483

3. Finance Department

SUBJECT: Monthly Investment Report as of January 31, 2025.

RECOMMENDATION: This is an information item for the City Council to receive and file.

(This item did not originate in Committee.)

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

4. Housing Department

SUBJECT: Mobile Home Park Rent Stabilization System Annual Activity Report for 2024.

RECOMMENDATION: That the City Council receive and file the 2024 Annual Activity Report for the Mobile Home Park Rent Stabilization System, as adopted by the Mobile Home Park Rent Review Board.

(This item did not originate in Committee.)

Legislative Body: City Council

Contact: Brenda Lopez, (805) 385-8092

5. Housing Department

SUBJECT: Yardi Systems Inc., Software License and Service Agreement for Oxnard Housing Authority.

RECOMMENDATION: That the Oxnard Housing Authority Board of Commissioners approve and authorize the Chair to execute a five-year Software as a Service (SAAS) Subscription Agreement (A-8577) with Yardi Systems Inc., a database client software for the operations related to the Public Housing Program and the Housing Choice Voucher Program, in an aggregate amount of \$344,961.75 plus annual Consumer Price Index increases.

(The Community Services, Public Safety, Housing and Development Committee approved 3-0 on February 11, 2025.)

Legislative Body: Housing Authority

Contact: Brenda Lopez, (805) 385-8092

6. Police Department

SUBJECT: Federal and State Asset Forfeiture Funds

RECOMMENDATION: That the City Council approve a budget appropriation in the amount of \$162,000 for the use of Federal (Fund 191 - \$95,000) and State (Fund 192 - \$67,000) Asset Forfeiture Funds allocated to the City of Oxnard's Police Department.

(This item did not originate in Committee.)

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

7. Public Works Department

SUBJECT: Public Project Agreement 32500418 with R.E. Schultz Construction, Inc. for Citywide Playground Replacement Project – Del Sol Park, Specification No. PW 25-16.

RECOMMENDATION: That the City Council approve and authorize:

1. A total of \$262,248.00 in Project funds for the Citywide Playground Replacement Project – Del Sol Park, Specification No. PW 25-16;

2. The Mayor to Execute an Agreement with R.E. Schultz Construction, Inc. in the amount of \$218,540.00 and a Project contingency amount of \$21,854.00 (10%) with R.E. Schultz Construction, Inc. for a total not to exceed value of \$240,394.00 for the Project; and

3. A Project allocation amount of \$21,854 (10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

8. Public Works Department

SUBJECT: Purchase Order with Municipal Maintenance Equipment for VAC-CON for Wastewater Division.

RECOMMENDATION: That the City Council approve and authorize the Purchasing Agent to execute a Purchase Order with Municipal Maintenance Equipment (MME) in the amount not to exceed \$779,155.72 for the purchase of a VAC-CON sewer cleaning vehicle mounted on a Freightliner 114SD truck chassis for the Wastewater Division.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

9. Public Works Department

SUBJECT: Second Amendment to Agreement 32300154 with Auto Body International for Light and Medium Duty Paint and Body

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Second Amendment to an Agreement with Auto Body International in the amount of \$450,000 for a new total amount not to exceed \$825,000 for paint and autobody repairs for City vehicles.

(This item did not originate in Committee since this is a continuation of a previous item approved by the City Council on March 21, 2023.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

10. Public Works Department

SUBJECT: Agreement 32500401 with Blackpointe Group Construction & Management, Inc. for

Catch Basin Cleaning Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Blackpointe Group Construction & Management, Inc. (Blackpointe) for an initial term of one year from March 5, 2025, to March 4, 2026, with the option for four consecutive one-year period extensions ending March 4, 2030, for a total contract amount not to exceed \$1,750,000 for catch basin cleaning services.

(Public Works and Transportation Committee approved 3-0 on February 11, 2025.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

11. Public Works Department

SUBJECT: Second Amendment to Agreement 32400156 with Roesling Nakamura Terada Architects, Inc. for Architecture and Engineering Services for the Wastewater Division New Maintenance Building Project PW 22-36.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Second Amendment to an Agreement with Roesling Nakamura Terada Architects, Inc. (RNT) in the amount of \$100,000 for a new not to exceed value of \$1,100,000 for additional design work required for the New Wastewater Maintenance Building PW 22-36.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement program budget, which was previously approved by the City Council.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

L. REPORTS

1. Public Works Department

SUBJECT: Annual Enterprise Pavement Impact Cost Reimbursement Study. (10 minutes)

RECOMMENDATION: That the City Council receive and file the Annual Enterprise Pavement Impact Cost Reimbursement Study.

(Public Works and Transportation Committee approved 3-0 on February 11, 2025.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/dwl-Epu0Lbo>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

2. Finance Department

SUBJECT: FY 2024-25 Mid-Year Budget. (15 minutes)

RECOMMENDATION: That the City Council:

1. Receive an update on the FY 2024-25 revenue and expenditure projections for major funds; and
2. Approve budget amendments to the General Fund (101), Street Maintenance Infrastructure Use Fee Fund (105), Special Districts Fund (120), Transportation Development Act Fund (212), Capital Outlay Fund (301), Developer & Other Deposits Fund (541), Environmental Resources Operating Fund (631), Public Liability and Property Insurance Fund (701), and the Facilities Maintenance

Fund (735) as explained in this report.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation

video: https://youtu.be/5G_rb22P0TI

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

3. Human Resources Department

SUBJECT: Memorandum of Understanding - Oxnard Public Safety Managers Association. (10 minutes)

RECOMMENDATION: That the City Council of the City of Oxnard adopt a Resolution approving the attached tentative agreement between the City of Oxnard and the Oxnard Public Safety Managers Association (OPSMA) that are proposed to be integrated with the terms of the existing Memorandum of Understanding (MOU) between the City and OPSMA. The integrated document shall be the successor MOU for the term July 1, 2024 through June 30, 2027.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation

video: <https://youtu.be/giD9fekDQVA>

Legislative Body: City Council

Contact: Steve Naveau, (805) 385-7947

4. Public Works Department

SUBJECT: Grant Application to the Outdoor Recreation Legacy Partnership Grant Program for the Durley Park Improvement Project. (10 minutes)

RECOMMENDATION: That the City Council approve and authorize the:

1. Submission of a grant application to the Outdoor Recreation Legacy Partnership Grant Program in an amount not to exceed \$6,000,000, with a 1:1 match requirement that is currently funded by a state grant, for the Durley Park Improvement Project (Project C2333);
2. City Manager, or designee, to execute the grant agreements;
3. Finance Director, or designee, to submit financial reports, grant claims, and approve budget appropriations for the use of grant funds; and
4. Public Works Director, or designee, to submit non-financial reports.

(This item did not originate in Committee as it is for a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Please click the following link to view the required Measure M pre-recorded presentation

video: <https://youtu.be/N1lyFzQdOFk>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department

SUBJECT: Public Project Agreement 32500373 with Toro Enterprises, Inc. for Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, Federal Project No. CML-5129(086). (10 minutes)

RECOMMENDATION: That the City Council approve and authorize:

1. A total of \$1,974,588.25 in Project funds for the Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, Federal Project No. CML-5129(086);
2. The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of \$1,645,490.25 for the Project and approve a Project contingency amount of \$164,549, (approximately 10%) with Toro Enterprises, Inc. for a total not-to-exceed value of \$1,810,039.25 for the Project;
3. A Project allocation amount of \$164,549 (approximately 10%) for engineering, inspection, survey and project management for the Project; and
4. A total amount of budget appropriations of \$1,020,244.31 consisting of \$627,906.42 from the Circulation System Improvement Fee Fund (Fund 350, Subfund 8040) available fund balance for the Northeast Communities Project C1302, and \$392,337.89 from the Mobility Fee Fund (Fund 350, Subfund 8055) available fund balance for the Cloyne Street Project C1601 as well as the corresponding Capital Outlay Fund (301) appropriation increase in the same amounts.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/K4faHTEqCM0>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

M. ADJOURNMENT



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.1

DATE: March 4, 2025
TO: Oxnard Housing Authority
FROM: Luly Lopez, City Clerk, (805) 385-7805, luly.lopez@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the Oxnard Housing Authority Board of Commissioners approve the minutes of the February 4, 2025 regular meeting as presented.

BACKGROUND

Approval of minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, City Clerk

ATTACHMENTS

1. Oxnard Housing Authority minutes of the regular meeting of February 4, 2025

MINUTES
OXNARD HOUSING AUTHORITY
February 4, 2025

A. ROLL CALL, POSTING OF AGENDA

At 4:39 p.m., Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard Housing Authority Board of Commissioners convened in the Council Chambers at 305 West Third Street, Oxnard, California concurrently with the Oxnard City Council. Commissioners Jose Andrade; Luis Mc Arthur; Michaela Perez; Gabriela Rodriguez; Aaron Starr and Gabriel Teran were present. Commissioners Gabriela Basua and Bert E. Perello were absent. The Secretary Designate stated that the agenda was posted on Thursday, January 23, 2025 at the Library, City Hall kiosk, City Administrative Offices and on the website.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO
ASSEMBLY BILL 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

At 4:41 p.m., the Oxnard Housing Authority Board of Commissioners recessed into a closed session.

C. CLOSED SESSION

At 4:42 p.m., Commissioner Bert E. Perello was present. At 5:19 p.m., Commissioner Gabriela Basua was present.

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code section 54956.9(d)(2))

Based on existing facts and circumstances, there is significant exposure to litigation against the City and Housing Authority in one potential case.

Legislative Body: City Council and Oxnard Housing Authority Board of Commissioners

D. OPENING CEREMONIES (6:00 PM)

At 6:17 p.m. Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard Housing Authority Board of Commissioners convened in the Council Chambers at 305 West Third Street, Oxnard, California concurrently with the Oxnard City Council.

Stephen Fischer, General Counsel announced that no reportable actions resulted from the closed session.

Commissioners Gabriela Basua; Luis Mc Arthur; Bert E. Perello; Michaela Perez; Gabriela Rodriguez; Aaron Starr; Gabriel Teran and Jose Andrade were present. The Secretary Designate stated that the agenda was posted on Thursday, January 23, 2025 at the Library, City Hall kiosk, City Administrative Offices and on the website.

The meeting opened with the pledge of allegiance to the flag of the United States led by Adilene Avila, followed by a moment of silence in honor of the tragic incident in Washington DC and in Philadelphia.

Staff members present were Alexander Nguyen, Executive Secretary; Eric Sonstegard, Assistant Executive Secretary; Stephen Fischer, General Counsel; Michael Wolfe, Public Works Director; Javier Chagoyen-Lázaro, Chief Financial Officer; Brenda Lopez, Interim Housing Director; and Lourdes A. López, Secretary Designate.

E. CEREMONIAL ITEMS

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

G. REPORT OF EXECUTIVE SECRETARY

H. HOUSING AUTHORITY BUSINESS

RECESS

At 9:28 p.m., the Oxnard Housing Authority Board of Commissioners recessed and at 9:35 p.m., the Oxnard Housing Authority Board of Commissioners reconvened.

At 9:58 p.m., the Oxnard Housing Authority Board of Commissioners and Oxnard City Council voted to continue the meeting past 10:00 p.m., and take action on the remainder of the items on the agenda.

I. REVIEW OF INFORMATION/CONSENT AGENDA

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

No public comments were received.

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Minutes of the Oxnard Housing Authority.

RECOMMENDATION: That the Housing Authority Board of Commissioners approve the regular meeting minutes of December 17, 2024.

2. Housing Department

SUBJECT: Second Amendment to Agreement 9880-23-HO with EJP Consulting Group, LLC for HUD Choice Neighborhoods Planning Grant Consulting Services.

RECOMMENDATION: That the Housing Authority Board of Commissioners approve and authorize the Housing Director or designee to execute the Second Amendment to Agreement Number 9880-23-HO with EJP Consulting Group, LLC for the United States Department of Housing and Urban Development (HUD) Choice Neighborhoods Planning Grant Consulting Services to increase the not to exceed amount of the agreement from \$74,713 to \$758,674 and extend the expiration date from September 1, 2024 to March 31, 2027.

No public comments were received.

It was moved by Commissioner Basua, seconded by Vice Chair Teran, to approve the recommended action as presented.

VOTE: Commissioners Andrade, Basua, Mc Arthur, Perello, Perez, Rodriguez, Starr, and Teran voted in favor; motion passed 8-0.

L. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Mc Arthur adjourned the meeting at 10:43 p.m.

LOURDES A. LÓPEZ
Secretary Designate

LUIS MC ARTHUR
Chair



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.2

DATE: March 4, 2025
TO: City Council
FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org
SUBJECT: Adoption of Ordinance Implementing Specific Provisions of the Court of Appeal's Decision Regarding the City Treasurer

RECOMMENDATION

That the City Council adopt an ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER.

(This item did not originate in Committee)

BACKGROUND

At its February 18, 2025 meeting, the Oxnard City Council voted 6 to 1 to introduce and waive further reading of the ordinance that:

1. Amends specific provisions of the Oxnard City Code to transfer the duties relating to the collection of fees and taxes from the City Treasurer to the Police Chief; and
2. Amends specific provisions of the Oxnard City Code to modify the procedure for the payment of demands, warrants and checks so that certain duties held by the City Treasurer are transferred to the Assistant City Treasurer.

Both actions were authorized in the judgment and writ of mandate filed on January 29, 2025 in the case of *Molina v. Alexander Nguyen, in his capacity as City Manager of the City of Oxnard, and the City of Oxnard*. In addition, the judgment, writ of mandate and associated opinion in the case filed on August 7, 2025 provide specific statutory authority for the actions in the ordinance. This authority includes Government Code Sections 34004, 37203, 41003, 41005, 41607 and 53910.

The ordinance will become effective thirty days after adoption.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Kenneth Rozell, Chief Assistant City Attorney

ATTACHMENTS

1. Ordinance No. 3052

ORDINANCE NO. 3052

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER

WHEREAS, on August 7, 2024, the Second District Court of Appeal, Division Six, issued its opinion (the “Opinion”) in the case of *Molina v. Nguyen, et al.* regarding the duties of the City Treasurer; and

WHEREAS, consistent with the Opinion and the final judgment and writ of mandate in this case (both entered on January 29, 2025), the City Council is taking specific actions to modify, amend and clarify specific duties of the City Treasurer going forward; and

WHEREAS, the Opinion stated that the duty to collect taxes may be transferred by ordinance to the chief of police; and

WHEREAS, pursuant to the provisions of Government Code Section 41607, “[t]he chief of police shall perform any license fee and tax collection services prescribed by ordinance”; and

WHEREAS, the Opinion also states that “Molina concedes that the chief of police can also collect taxes and fees”; and

WHEREAS, the judgment and the writ of mandate state that “[t]he City may in its discretion transfer those duties as authorized by law”; and

WHEREAS, consistent with the Opinion, the judgment and writ of mandate, and the provisions of state law, the duties to collect fees and taxes that currently reside with the City Treasurer are transferred to the Police Chief by this Ordinance; and

WHEREAS, the Opinion expressly authorized the City Council to designate the persons who can sign warrants and checks, and to establish its own procedure for the payment of warrants and checks; and

WHEREAS, Government Code Section 37203 provides that “[t]he legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks”; and

WHEREAS, Government Code Section 53910 provides that a governing body of a city “may by resolution authorize practices with respect to form, issuance, delivery,

endorsement and payment of warrants it deems convenient, efficient and in the public interest”; and

WHEREAS, the Opinion states that the City Council is authorized to transfer the duties provided in Government Code Section 41003 to the assistant city treasurer; and

WHEREAS, the judgment and the writ of mandate provides that “[t]he City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law”; and

WHEREAS, pursuant to the Opinion, the judgment and writ of mandate, and the provisions of state law, the City Council is amending specific portions of the Oxnard City Code’s procedure for the payments of warrants and checks; and

WHEREAS, consistent with the Opinion, the judgment and writ of mandate, and state law, the City Council wishes to make these specific changes to the Oxnard City Code as specified in this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Consistent with the judgment and writ of mandate in the case of *Molina v. Nguyen, et al*, the following are hereby repealed: Ordinance No. 2977; Oxnard City Code Section 2-44(C), as adopted by Ordinance No. 2643 on January 13, 2004; Resolution No. 15,324 and Resolution No. 15,325.

Section 2. Section 10-1(C) is added to Oxnard City Code to read as follows:

“(C) LICENSE COLLECTOR - The police chief or designee.”

Section 3. Section 11-1(F) of the Oxnard City Code is amended to read as follows:

“(F) COLLECTOR - The police chief or designee.”

Section 4. Section 11-141 of the Oxnard City Code is amended to read as follows:

“Section 11-141. APPLICATIONS

The license collector shall provide each applicant for a dance permit with a form specifying the information required for the permit. The city shall begin processing an application when the completed form, the applicable fee, and documents required are provided to the license collector. For purposes of this article, the police chief or designee shall be the license collector.”

Section 5. Section 11-170(C) of the Oxnard City Code is amended to read as follows:

“(C) LICENSE COLLECTOR - The police chief or designee.”

Section 6. Section 11-232(D) of the Oxnard City Code is amended to read as follows:

“(D) LICENSE COLLECTOR - The police chief or designee.”

Section 7. Section 11-261(D) of the Oxnard City Code is amended to read as follows:

“(D) LICENSE COLLECTOR - The police chief or designee.”

Section 8. Section 11-370(D) of the Oxnard City Code is amended to read as follows:

“(B) COLLECTOR - The police chief or designee.”

Section 9. Section 12-8 is added to the Oxnard City Code to read as follows:

“Section 12-8. DEFINITION OF LICENSE COLLECTOR.

For purposes of this Chapter, “License Collector” shall mean the police chief or designee.”

Section 10. Section 2-184 of the Oxnard City Code is amended to read as follows:

“Section 2-184. PROCEDURE FOR PAYMENT OF DEMANDS, WARRANTS AND CHECKS.

- A. The finance director shall prepare a written form of demand and proposed check for each approved invoice and claim. Supporting documents such as the purchase order, and invoice or claim for payment shall be attached thereto. Demands shall be individually audited by the finance director or designee, who shall certify as to the accuracy of each demand and the availability of funds for payment thereof. Such demands may be in the form of check-warrants and when approved by all officers as required by this code, shall be delivered to the assistant city treasurer. The assistant city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check.
- B. The provisions of subsection A shall be deemed to transfer the duties prescribed in Government Code 41003 to the assistant city treasurer.
- C. Government Code section 37203 expressly authorizes the City Council to designate the persons who may sign warrants and checks. The City Council provided this authorization pursuant to Resolution 15,784, as that resolution may be amended or renumbered from time to time.”

Section 11. Section 2-186(B)(2) of the Oxnard City Code is amended to read as follows:

“(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the finance director out of the fund therein designated if there be sufficient money in such fund for that purpose.”

Section 12. If any subsection, sentence, clause, phrase or word of the Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 13. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published a minimum of five (5) days before the City Council’s adoption of the ordinance and within fifteen (15) calendar days of the adoption in a newspaper of general circulation published and circulated in the City; and shall post a certified copy of this Ordinance in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____, was adopted on _____ to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Luis Mc Arthur, Mayor

ATTEST:

APPROVED AS TO FORM:

Luly A. Lopez, City Clerk

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.3

DATE: March 4, 2025
TO: City Council
FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400, javier.chagoyenlazaro@oxnard.org
SUBJECT: Monthly Investment Report as of January 31, 2025.

RECOMMENDATION

This is an information item for the City Council to receive and file.

(This item did not originate in Committee.)

BACKGROUND

The City of Oxnard (City) invests funds in compliance with the California Government Code Section 53600 et. seq., and the City's Investment Policy. This report follows the guidelines established in the California Government Code section 53646 and the City's adopted Investment Policy.

DISCUSSION:

The City's total cash and investment position as of January 31, 2025 was \$481.0 million, with \$24.9 million in cash accounts and \$456.1 million in investments, as summarized in the table below.

Cash and Investment Position	January-2025
Cash	
Bank of America General Account	\$ 17,098,820.98
Bank of America Successor Agency Account	7,437,002.75
Bank of America Citations Account	323,494.78
Bank of America Golf Course Account	-
Total Cash	24,859,318.51
Investments	
Local Agency Investment Fund (LAIF)	75,000,000.00
Ventura County Investment Pool (VCIP)	51,164,861.60
Certificates of Deposits	-
Bank Notes	-
Municipal Bonds	-
Federal Agency	-
Supra-National Agency Bonds *	996,148.00
Medium Term Notes *	30,392,340.59
U.S. Treasury Notes *	9,938,858.54
U.S. Government Sponsored Entities *	288,609,568.14
Total Investments	456,101,776.87
Total Cash and Investments	\$ 480,961,095.38

* Market Value

Statutory Compliance

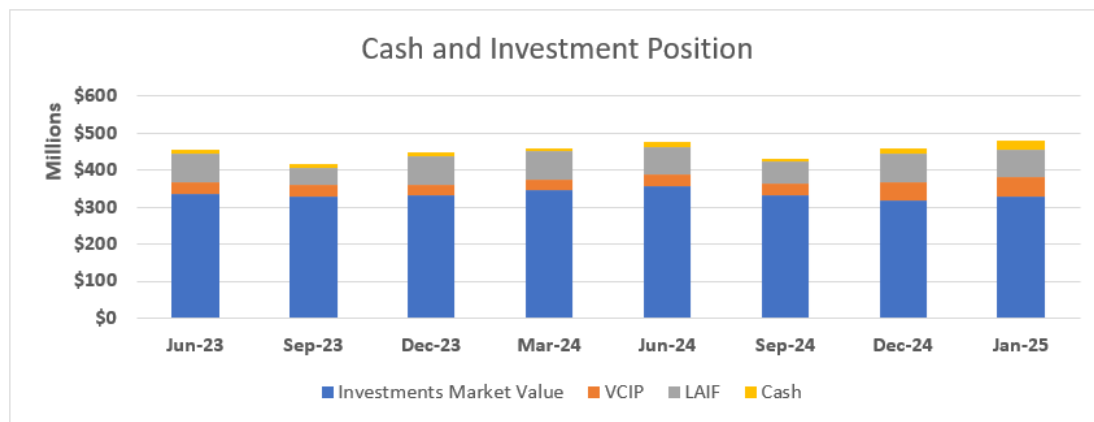
All investment transactions have been executed in conformance with the City's Investment Policy and the California Government Code. The table below represents the City's investment portfolio as of January 31, 2025 by authorized investment and duration for a total portfolio amount of \$456.1 million.

Authorized Investment at Market Value	Allowable Threshold (\$ million or %)	Under 1 year	1-3 years	Over 3 years	Total	Average Yield to Maturity	Portfolio %
LAIF	\$75.0	\$75.00	\$-	\$-	\$75.0	4.37%	16.44%
VCIP	n/a	51.2	-	-	51.2	4.53%	11.22%
Federal Agencies	n/a	66.9	211.8	9.9	288.6	2.56%	63.28%
Medium Term Notes	30%	12.2	18.1	-	30.4	1.50%	6.66%
Supranational	20%	1.0	-	-	1.0	0.53%	0.22%
Treasuries	n/a	4.9	5.0	-	9.9	4.04%	2.18%
Total Investment		\$211.3	\$234.9	\$9.9	\$456.1	3.02 %	100%

*Total may not add due to rounding

Portfolio Trends

The cash and investment position, as of January 31, 2025, increased by \$22.6 million compared with the prior month, mainly driven by the receipts of \$18 million in property taxes from Ventura County, of which \$5.4 million was deposited for the Successor Agency and the City. The trend for the cash and investment position is represented in the following chart.

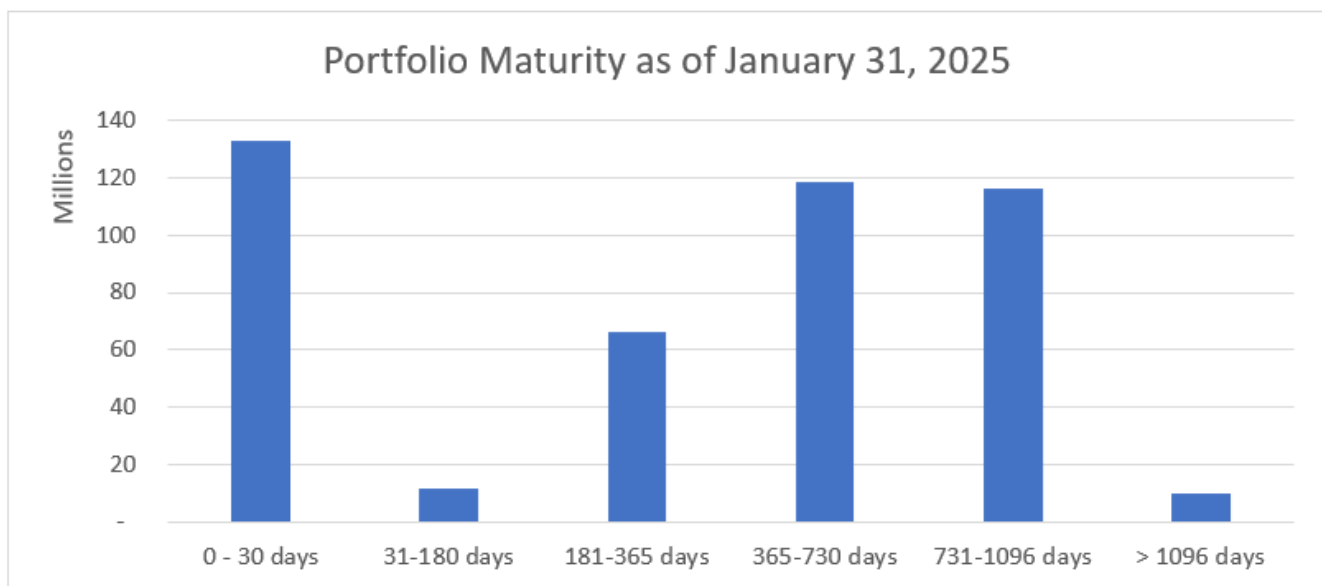


The California Government Code and the City's investment policy defined the eligible investments that the City can purchase to allocate surplus funds. The table below summarizes the City's investment portfolio by investment type. The individual investments included under each investment type are included as an attachment to this report.

City of Oxnard
Portfolio Summary Statistics
Sorted by Fund
January 31, 2025

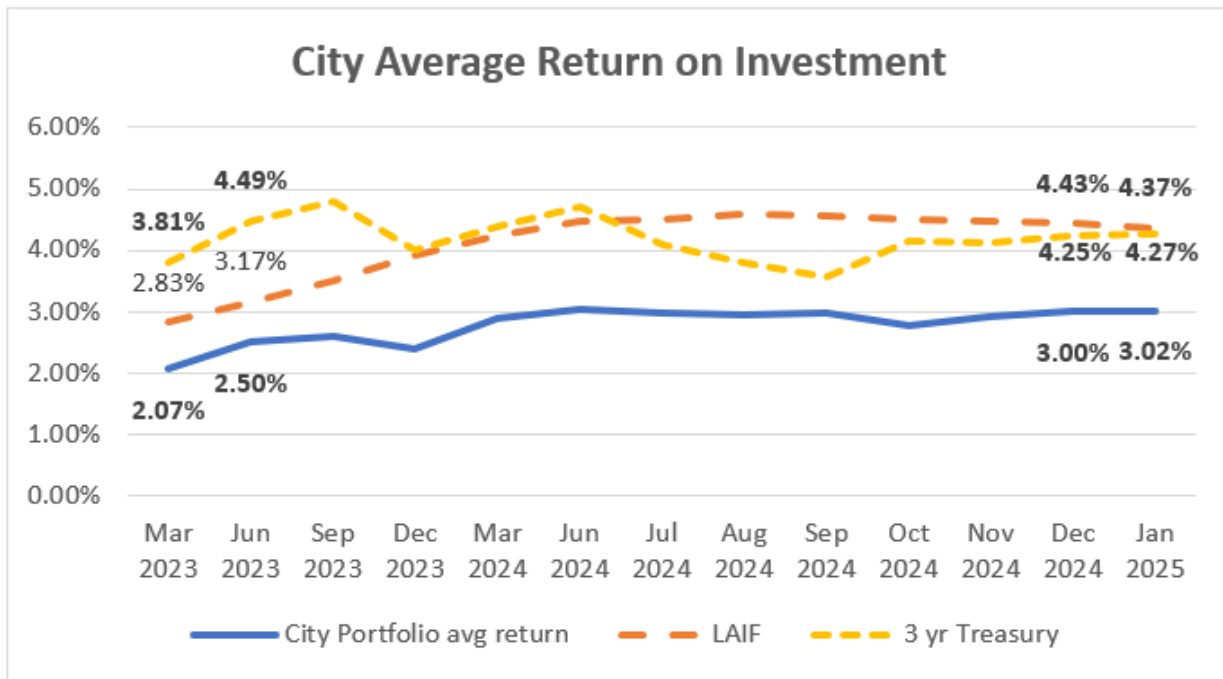
Investment Type	Par Value	Book Value	Market Value	% of the Portfolio	Market Price	WAM	WAC	YTM	YTW	Accrued Interest	Unrealized G/L
County Investment Pool	51,164,861.60	51,164,861.60	51,164,861.60	11.04	0.000	1	0	4.530	4.530	195,377.74	0.00
Federal Agency Coupon	295,330,000.00	294,965,453.00	288,609,568.14	63.63	97.697	682	132	2.556	2.518	1,294,277.08	-6,355,884.86
Local Agency Investment Funds	75,000,000.00	75,000,000.00	75,000,000.00	16.18	0.000	1	0	4.366	4.366	278,108.22	0.00
Medium Term Notes	31,510,000.00	31,524,680.55	30,392,340.59	6.80	96.455	412	169	1.498	1.498	129,750.05	-1,132,339.96
Supranational	1,000,000.00	1,000,245.52	996,148.00	0.22	99.615	38	0	0.526	0.526	2,916.67	-4,097.52
Treasury Coupon Securities	7,500,000.00	7,507,793.35	7,506,631.04	1.62	99.891	510	0	4.156	4.156	84,803.50	-1,162.31
Treasury Discounts -Amortizing	2,500,000.00	2,436,377.54	2,432,227.50	0.53	97.289	243	0	3.935	3.935	0.00	-4,150.04
Report Totals:	464,004,861.60	463,599,411.56	456,101,776.87	100 %	71.063	472	136	3.025	2.999	1,985,233.26	-7,497,634.69

The chart below represents the City's investment portfolio classified by days until maturities from January 31, 2025. Pooled investments in LAIF and Ventura County Investment Pooled provide immediate liquidity to support cash flow needs of the City, and are included in the maturity group 0 to 30 days.



The City's average return on investment for the month of January 2025 was 3.02%. LAIF average monthly effective yields for the same period was 4.37%. The City's portfolio includes over \$163 million investments that were purchased between December 2020 and December 2021, with a weighted average of return below 1%. The maturities for those investments at the time of purchase were close to five years. The City holds investments until maturity, and will evaluate reinvestment options based on market conditions and liquidity needs as those funds became available for investing.

The chart below represents the City's average return on investments, alongside with three-year Treasury bill and the LAIF Pooled Monthly Investment Account (PMIA) average Monthly Effective Yields, as benchmarks for the City's portfolio.



STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact from this report.

COMMITTEE OUTCOME

This item did not originate in a committee.

Prepared by: Javier Chagoyen-Lazaro, Chief Financial Officer

ATTACHMENTS

1. January 2025 Monthly Investment report for March 4 Council
2. Presentation January 2025 Investment Report

Investment report for the month Ended in January 31, 2025
--

City of Oxnard

All Investment transactions have been executed in accordance with the criteria stated in the City's Investment Policy (Resolution No. 15,186) adopted by the City Council held on July 2, 2024

Investments have been made in compliance with California Government Code and in accordance with the City's Investment Policy. **SYMPRO** provides the market value for negotiable instruments held in safekeeping included in this report. For investments not held by the City's custodian, market values are obtained from individual monthly statements. Based on analysis of cash receipts, expenditures, and daily cash flows, it is projected that revenues and investment liquidity are sufficient to meet expenditure requirements for the next six months.

Javier Chagoyen-Lázaro

Javier Chagoyen-Lazaro
Chief Financial Officer
City of Oxnard

02/18/2025

Date

City of Oxnard
Cash and Investment Summary
Month Ended
January 31, 2025

Cash and Investment Position	January 2025
Cash	
Bank of America General Account	\$ 17,098,820.98
Bank of America Successor Agency Account	7,437,002.75
Bank of America Citations Account	323,494.78
Bank of America Golf Course Account	-
Total Cash	24,859,318.51
Investments	
Local Agency Investment Fund (LAIF)	75,000,000.00
Ventura County Investment Pool (VCIP)	51,164,861.60
Certificates of Deposits	-
Bank Notes	-
Municipal Bonds	-
Federal Agency	-
Supra-National Agency Bonds *	996,148.00
Medium Term Notes *	30,392,340.59
U.S. Treasury Notes *	9,938,858.54
U.S. Government Sponsored Entities *	288,609,568.14
Total Investments	456,101,776.87
Total Cash and Investments	\$ 480,961,095.38
* Market Value	

Investment Portfolio Detail
Fiscal Year 2024 - 2025
January 1 - January 31, 2025

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
Pooled Investments									
County Investment Pool									
VCIP	Ventura County Investment Pool		51,164,861.60	51,164,861.60	51,164,861.60	4.53	1	4.53	
Federal Agency Coupon Securities									
3134HA3T8	Farmer Mac	1/17/2025	10,000,000.00	10,004,930.00	9,997,532.50	4.55	1,077	4.559	1/14/2028
31422XAS1	Farmer Mac	3/2/2021	1,000,000.00	961,194.00	1,000,000.00	0.61	394	0.61	3/2/2026
3133ERP70	Federal Farm Credit Bank	12/31/2024	10,000,000.00	10,003,802.22	9,992,765.16	4.25	1,059	4.294	12/27/2027
3133ERQ20	Federal Farm Credit Bank	12/31/2024	10,000,000.00	10,002,950.00	10,000,000.00	4.63	1,062	4.63	12/30/2027
3133ERT27	Federal Farm Credit Bank	1/16/2025	10,000,000.00	10,003,801.67	9,999,947.38	4.67	1,076	4.684	1/13/2028
3133ERN31	Federal Farm Credit Bank	1/16/2025	5,000,000.00	5,005,273.89	4,996,612.23	4.34	1,055	4.468	12/23/2027
3133ENBK5	Federal Farm Credit Bank	10/20/2021	1,000,000.00	947,562.00	1,000,000.00	1.14	626	1.14	10/20/2026
3130AQKJ1	Federal Home Loan Bank	1/28/2022	1,000,000.00	951,038.00	1,000,000.00	1.7	726	1.7	1/28/2027
3130AQPD9	Federal Home Loan Bank	2/17/2022	1,000,000.00	955,591.00	1,000,000.00	2	746	2	2/17/2027
3130AQPD9	Federal Home Loan Bank	2/17/2022	1,000,000.00	955,591.00	1,000,000.00	2	746	2	2/17/2027
3130AQSM6	Federal Home Loan Bank	2/25/2022	1,000,000.00	956,088.00	1,000,000.00	2.05	754	2.05	2/25/2027
3130AQRH8	Federal Home Loan Bank	2/25/2022	1,000,000.00	955,116.00	1,000,000.00	2	754	2	2/25/2027
3130AQRK1	Federal Home Loan Bank	2/25/2022	1,000,000.00	954,172.00	1,000,000.00	2.03	754	2.03	2/25/2027
3130AR2C4	Federal Home Loan Bank	2/28/2022	1,000,000.00	998,497.00	1,000,000.00	2.2	27	2.2	2/28/2025
3130AQYG2	Federal Home Loan Bank	2/28/2022	1,000,000.00	963,400.00	1,000,000.00	2.5	754	2.493	2/25/2027
3130AQX65	Federal Home Loan Bank	3/4/2022	2,000,000.00	1,919,108.00	2,000,000.00	2.25	761	2.25	3/4/2027
3130AQVH3	Federal Home Loan Bank	3/4/2022	1,000,000.00	958,562.00	1,000,000.00	2.2	761	2.2	3/4/2027
3130AQVH3	Federal Home Loan Bank	3/4/2022	1,000,000.00	958,562.00	1,000,000.00	2.2	761	2.2	3/4/2027
3130AQVH3	Federal Home Loan Bank	3/4/2022	1,300,000.00	1,246,130.60	1,298,368.50	2.2	761	2.264	3/4/2027
3130AQX65	Federal Home Loan Bank	3/4/2022	2,700,000.00	2,590,795.80	2,698,870.50	2.25	761	2.271	3/4/2027
3130AR2D2	Federal Home Loan Bank	3/10/2022	1,000,000.00	987,969.00	1,000,000.00	3	767	3.034	3/10/2027
3130ARAX9	Federal Home Loan Bank	3/30/2022	1,000,000.00	973,350.00	1,000,000.00	3	782	3	3/25/2027
3130ARDV0	Federal Home Loan Bank	4/8/2022	1,000,000.00	973,421.00	1,000,000.00	3	782	3	3/25/2027
3130ARZF1	Federal Home Loan Bank	5/9/2022	2,600,000.00	2,586,794.60	2,600,000.00	3.4	220	3.401	9/9/2025
3130ARZE4	Federal Home Loan Bank	5/25/2022	2,000,000.00	1,998,728.00	2,000,000.00	4.2	843	4.186	5/25/2027
3130ARYA3	Federal Home Loan Bank	5/26/2022	1,000,000.00	991,005.00	1,000,000.00	4	844	4	5/26/2027
3130ARYA3	Federal Home Loan Bank	5/26/2022	1,000,000.00	991,005.00	1,000,000.00	4	844	4	5/26/2027
3130ARYA3	Federal Home Loan Bank	5/26/2022	1,000,000.00	991,005.00	1,000,000.00	4	844	4	5/26/2027
3130AS4F3	Federal Home Loan Bank	6/9/2022	2,000,000.00	1,981,906.00	2,000,000.00	4	842	4	5/24/2027
3130AS4F3	Federal Home Loan Bank	6/9/2022	2,000,000.00	1,981,906.00	2,000,000.00	4	842	4	5/24/2027
3130ASFQ7	Federal Home Loan Bank	6/29/2022	1,000,000.00	988,798.00	999,879.44	4	878	4.006	6/29/2027
3130ASHT9	Federal Home Loan Bank	7/12/2022	1,000,000.00	999,726.00	1,000,000.00	4.5	891	4.5	7/12/2027
3130ASGP8	Federal Home Loan Bank	7/14/2022	2,000,000.00	1,996,436.00	2,000,000.00	4.1	163	4.1	7/14/2025
3130ASF38	Federal Home Loan Bank	7/22/2022	1,000,000.00	992,423.00	1,000,000.00	4.1	901	4.1	7/22/2027
3130ASKZ1	Federal Home Loan Bank	7/22/2022	1,000,000.00	999,152.00	1,000,000.00	4.25	355	4.25	1/22/2026

Investment Portfolio Detail
Fiscal Year 2024 - 2025
January 1 - January 31, 2025

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
3130ASLA5	Federal Home Loan Bank	7/26/2022	1,000,000.00	1,000,173.00	1,000,000.00	4.5	905	4.5	7/26/2027
3130ASN5	Federal Home Loan Bank	7/28/2022	1,000,000.00	998,550.00	1,000,000.00	4.375	907	4.375	7/28/2027
3130AYZG4	Federal Home Loan Bank	2/15/2024	1,000,000.00	1,000,700.00	1,000,000.00	5.4	1,474	5.4	2/14/2029
3130AYYJ9	Federal Home Loan Bank	2/15/2024	1,000,000.00	1,000,132.00	1,000,000.00	5	1,475	5	2/15/2029
3130B0EQ8	Federal Home Loan Bank	3/19/2024	1,000,000.00	999,509.00	999,173.91	5.375	1,501	5.398	3/13/2029
3130B1LW5	Federal Home Loan Bank	5/30/2024	2,000,000.00	2,003,480.00	2,000,000.00	5.25	482	5.25	5/29/2026
3130B2ZR9	Federal Home Loan Bank	10/3/2024	2,500,000.00	2,474,990.00	2,500,000.00	4.05	965	0.56	9/24/2027
3130B33X9	Federal Home Loan Bank	10/18/2024	7,000,000.00	6,933,962.00	6,996,329.49	4.5	1,711	4.539	10/9/2029
3130B3UC5	Federal Home Loan Bank	11/26/2024	5,755,000.00	5,759,144.88	5,757,464.75	4.7	1,021	4.704	11/19/2027
3130APN43	Federal Home Loan Bank	12/31/2024	10,000,000.00	9,709,940.00	9,708,458.57	2.25	633	4.25	10/27/2026
3130B4B42	Federal Home Loan Bank	12/31/2024	10,000,000.00	10,002,447.78	10,005,417.71	4.625	1,055	4.643	12/23/2027
3130AKLL8	Federal Home Loan Bank	12/30/2020	2,000,000.00	1,933,700.00	2,000,000.00	0.5	332	0.5	12/30/2025
3130AKN36	Federal Home Loan Bank	1/20/2021	2,000,000.00	1,931,920.00	2,000,000.00	0.525	348	0.525	1/15/2026
3130AKNK8	Federal Home Loan Bank	1/20/2021	5,000,000.00	4,868,345.00	5,000,000.00	0.5	261	0.5	10/20/2025
3130AKNK8	Federal Home Loan Bank	1/20/2021	1,000,000.00	973,669.00	1,000,000.00	0.5	261	0.5	10/20/2025
3130AKQ74	Federal Home Loan Bank	1/22/2021	5,000,000.00	4,829,610.00	5,000,000.00	0.625	355	0.625	1/22/2026
3130AKMD5	Federal Home Loan Bank	1/26/2021	5,000,000.00	4,822,885.00	4,999,506.94	0.5	359	0.51	1/26/2026
3130AKNR3	Federal Home Loan Bank	1/26/2021	1,000,000.00	964,472.00	1,000,000.00	0.56	359	0.56	1/26/2026
3130AKU61	Federal Home Loan Bank	1/27/2021	5,000,000.00	4,835,235.00	5,000,000.00	0.75	360	0.609	1/27/2026
3130AKU61	Federal Home Loan Bank	1/27/2021	5,000,000.00	4,835,235.00	5,000,000.00	0.75	360	0.609	1/27/2026
3130AKQX7	Federal Home Loan Bank	1/28/2021	2,000,000.00	1,932,156.00	2,000,039.67	0.7	361	0.698	1/28/2026
3130AKRN8	Federal Home Loan Bank	1/28/2021	2,000,000.00	1,931,200.00	2,000,000.00	0.65	361	0.65	1/28/2026
3130AKQX7	Federal Home Loan Bank	1/28/2021	5,000,000.00	4,830,390.00	5,000,000.00	0.7	361	0.7	1/28/2026
3130AKQ82	Federal Home Loan Bank	1/28/2021	1,500,000.00	1,448,061.00	1,500,000.00	0.6	361	0.6	1/28/2026
3130AKPN0	Federal Home Loan Bank	1/29/2021	2,000,000.00	1,930,562.00	2,000,000.00	0.6	362	0.6	1/29/2026
3130AKVN3	Federal Home Loan Bank	1/29/2021	1,000,000.00	964,512.00	1,000,000.00	0.52	362	0.52	1/29/2026
3130AKVQ6	Federal Home Loan Bank	1/29/2021	1,000,000.00	972,554.00	1,000,000.00	0.47	270	0.47	10/29/2025
3130AKWD4	Federal Home Loan Bank	2/9/2021	1,000,000.00	965,861.00	1,000,000.00	0.75	373	0.539	2/9/2026
3130AKWD4	Federal Home Loan Bank	2/9/2021	1,000,000.00	965,861.00	1,000,000.00	0.75	373	0.54	2/9/2026
3130AKTJ5	Federal Home Loan Bank	2/9/2021	2,000,000.00	1,927,434.00	2,000,000.00	0.54	373	0.54	2/9/2026
3130AKVA1	Federal Home Loan Bank	2/9/2021	2,000,000.00	1,931,722.00	2,000,000.00	0.75	373	0.564	2/9/2026
3130AKVR4	Federal Home Loan Bank	2/12/2021	1,000,000.00	962,286.00	1,000,000.00	0.55	376	0.55	2/12/2026
3130AL7M0	Federal Home Loan Bank	2/24/2021	2,000,000.00	1,924,530.00	1,998,936.11	0.625	388	0.676	2/24/2026
3130AKXJ0	Federal Home Loan Bank	2/24/2021	1,000,000.00	963,303.00	999,829.78	0.6	388	0.616	2/24/2026
3130AKXJ0	Federal Home Loan Bank	2/24/2021	5,000,000.00	4,816,515.00	4,999,148.89	0.6	388	0.616	2/24/2026
3130AKXJ0	Federal Home Loan Bank	2/24/2021	3,000,000.00	2,889,909.00	3,000,000.00	0.6	388	0.6	2/24/2026
3130AKXJ0	Federal Home Loan Bank	2/24/2021	1,000,000.00	963,303.00	999,893.61	0.6	388	0.61	2/24/2026
3130AKXJ0	Federal Home Loan Bank	2/24/2021	1,000,000.00	963,303.00	999,893.61	0.6	388	0.61	2/24/2026
3130ALCB8	Federal Home Loan Bank	2/24/2021	1,000,000.00	963,556.00	1,000,000.00	0.68	388	0.68	2/24/2026
3130AL7M0	Federal Home Loan Bank	2/24/2021	1,000,000.00	962,265.00	999,893.61	0.625	388	0.635	2/24/2026

Investment Portfolio Detail
Fiscal Year 2024 - 2025
January 1 - January 31, 2025

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
3130ALFS8	Federal Home Loan Bank	3/10/2021	1,000,000.00	963,338.00	1,000,000.00	0.8	402	0.8	3/10/2026
3130ALDN1	Federal Home Loan Bank	3/16/2021	1,000,000.00	962,725.00	1,000,000.00	0.8	408	0.8	3/16/2026
3130ALDN1	Federal Home Loan Bank	3/16/2021	1,000,000.00	962,725.00	1,000,000.00	0.8	408	0.8	3/16/2026
3130ALGB4	Federal Home Loan Bank	3/17/2021	1,000,000.00	962,679.00	1,000,000.00	0.8	409	0.8	3/17/2026
3130ALGJ7	Federal Home Loan Bank	3/23/2021	975,000.00	940,045.28	975,000.00	1	415	1	3/23/2026
3130ALGC2	Federal Home Loan Bank	3/23/2021	1,000,000.00	962,921.00	1,000,000.00	0.875	415	0.875	3/23/2026
3130ALLN2	Federal Home Loan Bank	3/24/2021	2,000,000.00	1,932,986.00	2,000,000.00	1	416	0.871	3/24/2026
3130ALNU4	Federal Home Loan Bank	3/24/2021	1,000,000.00	994,753.00	1,000,000.00	0.68	51	0.68	3/24/2025
3130AM2F8	Federal Home Loan Bank	4/29/2021	1,000,000.00	962,540.00	1,000,000.00	1.125	452	1.125	4/29/2026
3130AM4L3	Federal Home Loan Bank	4/29/2021	1,000,000.00	964,324.00	1,000,000.00	1.25	452	1.1	4/29/2026
3130AMJH6	Federal Home Loan Bank	5/26/2021	1,000,000.00	959,260.00	1,000,000.00	1.05	479	1.05	5/26/2026
3130AML42	Federal Home Loan Bank	5/27/2021	1,000,000.00	962,030.00	1,000,000.00	1.2	480	0.957	5/27/2026
3130AMCM2	Federal Home Loan Bank	6/3/2021	1,250,000.00	1,236,902.50	1,249,919.02	2	465	1.543	5/12/2026
3130AMM41	Federal Home Loan Bank	6/16/2021	5,000,000.00	4,783,965.00	5,000,000.00	1	500	1	6/16/2026
3130AMPT3	Federal Home Loan Bank	6/23/2021	5,000,000.00	4,782,990.00	5,000,000.00	1.03	507	1.03	6/23/2026
3130AMYP1	Federal Home Loan Bank	7/15/2021	3,000,000.00	2,868,009.00	3,000,000.00	1.125	529	1.125	7/15/2026
3130ANWH9	Federal Home Loan Bank	9/24/2021	1,000,000.00	950,680.00	1,000,000.00	1.08	591	1.08	9/15/2026
3130ANYS3	Federal Home Loan Bank	10/12/2021	1,000,000.00	990,996.00	999,871.17	0.625	88	0.678	4/30/2025
3130APB87	Federal Home Loan Bank	10/13/2021	1,000,000.00	948,563.00	1,000,000.00	1.1	619	1.1	10/13/2026
3130APB87	Federal Home Loan Bank	10/13/2021	1,000,000.00	948,563.00	1,000,000.00	1.1	619	1.1	10/13/2026
3130AP5A9	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,574.00	1,000,000.00	1.05	621	1.05	10/15/2026
3130AP5A9	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,574.00	1,000,000.00	1.05	621	1.05	10/15/2026
3130AP5A9	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,574.00	1,000,000.00	1.05	621	1.05	10/15/2026
3130AP3X1	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,412.00	999,897.67	1.04	621	1.046	10/15/2026
3130AP5A9	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,574.00	1,000,000.00	1.05	621	1.05	10/15/2026
3130AP3X1	Federal Home Loan Bank	10/15/2021	1,000,000.00	947,412.00	1,000,000.00	1.04	621	1.04	10/15/2026
3130APAY1	Federal Home Loan Bank	10/21/2021	3,000,000.00	2,843,517.00	3,000,000.00	1.1	627	1.1	10/21/2026
3130APBF1	Federal Home Loan Bank	10/22/2021	1,000,000.00	948,573.00	1,000,000.00	1.15	628	1.15	10/22/2026
3130APBF1	Federal Home Loan Bank	10/22/2021	2,000,000.00	1,897,146.00	2,000,000.00	1.15	628	1.15	10/22/2026
3130APHT5	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,898,114.00	2,000,000.00	1.2	632	1.2	10/26/2026
3130APC45	Federal Home Loan Bank	10/26/2021	1,000,000.00	948,978.00	1,000,000.00	1.18	632	1.18	10/26/2026
3130APHT5	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,898,114.00	1,999,652.78	1.2	632	1.21	10/26/2026
3130APCX1	Federal Home Loan Bank	10/26/2021	1,000,000.00	949,883.00	1,000,000.00	1.25	632	1.25	10/26/2026
3130APCX1	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,899,766.00	2,000,000.00	1.25	632	1.25	10/26/2026
3130APCX1	Federal Home Loan Bank	10/26/2021	1,000,000.00	949,883.00	1,000,000.00	1.25	632	1.25	10/26/2026
3130APG82	Federal Home Loan Bank	10/28/2021	1,000,000.00	962,634.00	1,000,000.00	1.25	634	1.264	10/28/2026
3130APHV0	Federal Home Loan Bank	10/28/2021	2,000,000.00	1,897,110.00	2,000,000.00	1.18	634	1.18	10/28/2026
3130APDQ5	Federal Home Loan Bank	10/28/2021	1,000,000.00	949,716.00	1,000,000.00	1.25	634	1.25	10/28/2026
3130APKQ7	Federal Home Loan Bank	11/10/2021	1,000,000.00	948,706.00	1,000,000.00	1.25	647	1.25	11/10/2026
3130APKQ7	Federal Home Loan Bank	11/10/2021	1,000,000.00	948,706.00	999,112.50	1.25	647	1.302	11/10/2026

Investment Portfolio Detail
Fiscal Year 2024 - 2025
January 1 - January 31, 2025

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
3130APKQ7	Federal Home Loan Bank	11/10/2021	1,000,000.00	948,706.00	1,000,000.00	1.25	647	1.25	11/10/2026
3130APLP8	Federal Home Loan Bank	11/16/2021	1,000,000.00	948,449.00	1,000,000.00	1.375	653	1.375	11/16/2026
3130APLP8	Federal Home Loan Bank	11/16/2021	1,000,000.00	948,449.00	1,000,000.00	1.375	653	1.375	11/16/2026
3130APL37	Federal Home Loan Bank	11/16/2021	1,000,000.00	950,268.00	1,000,000.00	1.4	653	1.4	11/16/2026
3130APNK7	Federal Home Loan Bank	11/18/2021	1,000,000.00	949,647.00	1,000,000.00	1.375	655	1.375	11/18/2026
3130APPZ2	Federal Home Loan Bank	11/23/2021	1,000,000.00	951,426.00	1,000,000.00	1.5	660	1.5	11/23/2026
3130AQ3T8	Federal Home Loan Bank	12/23/2021	1,000,000.00	959,036.00	1,000,000.00	2	690	1.641	12/23/2026
3130AQAB9	Federal Home Loan Bank	12/30/2021	1,250,000.00	1,188,662.50	1,250,000.00	1.625	697	1.625	12/30/2026
3134GXQF4	Federal Home Loan Mtg Corp	4/13/2022	1,000,000.00	974,772.00	1,000,000.00	3.25	801	3.25	4/13/2027
3134GXSH8	Federal Home Loan Mtg Corp	5/17/2022	1,000,000.00	990,634.00	1,000,000.00	4	835	4	5/17/2027
3134GXTD6	Federal Home Loan Mtg Corp	5/23/2022	2,000,000.00	1,994,170.00	2,000,000.00	3.5	111	3.5	5/23/2025
3134GXSZ8	Federal Home Loan Mtg Corp	5/23/2022	2,000,000.00	1,993,504.00	2,000,000.00	3.4	111	3.4	5/23/2025
3134GXUF9	Federal Home Loan Mtg Corp	5/26/2022	2,000,000.00	1,994,784.00	2,000,000.00	4	844	4.213	5/26/2027
3134GXUF9	Federal Home Loan Mtg Corp	5/26/2022	1,000,000.00	997,392.00	1,000,000.00	4	844	4.213	5/26/2027
3134GXTB0	Federal Home Loan Mtg Corp	5/26/2022	2,000,000.00	1,998,486.00	1,999,987.37	3.25	25	3.261	2/26/2025
3134GXTB0	Federal Home Loan Mtg Corp	5/26/2022	2,000,000.00	1,998,486.00	2,000,000.00	3.25	25	3.251	2/26/2025
3134GXUF9	Federal Home Loan Mtg Corp	5/26/2022	2,000,000.00	1,994,784.00	2,000,000.00	4	844	4.213	5/26/2027
3134GXTE4	Federal Home Loan Mtg Corp	5/27/2022	1,000,000.00	990,517.00	1,000,000.00	4	845	4	5/27/2027
3134GXZN7	Federal Home Loan Mtg Corp	7/12/2022	1,000,000.00	995,770.00	1,000,000.00	4.25	891	4.25	7/12/2027
3134GXD50	Federal Home Loan Mtg Corp	7/21/2022	1,000,000.00	997,677.00	1,000,000.00	4	170	4	7/21/2025
3134GXD50	Federal Home Loan Mtg Corp	7/21/2022	1,000,000.00	997,677.00	1,000,000.00	4	170	4	7/21/2025
3134GXE67	Federal Home Loan Mtg Corp	7/28/2022	1,000,000.00	995,729.00	1,000,000.00	4.25	907	4.25	7/28/2027
3134GXQ23	Federal Home Loan Mtg Corp	8/25/2022	1,000,000.00	995,840.00	1,000,000.00	4.25	935	4.25	8/25/2027
3137EAXE3	Federal Home Loan Mtg Corp	10/3/2024	2,500,000.00	2,439,905.42	2,444,050.13	0.375	234	3.966	9/23/2025
3134HAF40	Federal Home Loan Mtg Corp	11/26/2024	5,000,000.00	5,002,715.00	5,000,000.00	4.7	1,028	4.7	11/26/2027
3134HAF40	Federal Home Loan Mtg Corp	11/26/2024	5,000,000.00	5,002,715.00	5,000,000.00	4.7	1,028	4.7	11/26/2027
3134GXKJ2	Federal Home Loan Mtg Corp	1/22/2021	2,000,000.00	1,929,234.00	2,000,000.00	0.55	355	0.55	1/22/2026
Local Agency Investment Funds									
LAIF	LAIF		75,000,000.00	75,000,000.00	75,000,000.00	4.366	1	4.366	
Medium Term Notes									
037833DX5	Apple Inc.	1/26/2021	1,000,000.00	979,856.00	1,000,069.00	0.55	200	0.537	8/20/2025
037833EB2	Apple Inc.	2/8/2021	1,000,000.00	964,529.00	999,989.81	0.7	372	0.071	2/8/2026
06048WS43	Bank of America	2/18/2022	3,000,000.00	2,944,437.00	3,000,000.00	2	198	2	8/18/2025
06048WV98	Bank of America	5/27/2022	2,000,000.00	1,966,422.00	2,000,000.00	4.05	480	4.05	5/27/2026
06048WW63	Bank of America	6/22/2022	1,000,000.00	997,197.00	1,000,000.00	5	871	5	6/22/2027
06051GF53	Bank of America	1/8/2021	1,000,000.00	997,216.00	1,015,048.57	3.875	181	0.804	8/1/2025
06048WL32	Bank of America	2/24/2021	1,000,000.00	956,223.00	1,000,000.00	0.8	388	0.08	2/24/2026
06048WL99	Bank of America	5/14/2021	1,000,000.00	952,850.00	1,000,000.00	1.4	467	1.4	5/14/2026
06048WL99	Bank of America	5/14/2021	2,000,000.00	1,905,700.00	2,000,000.00	1.4	467	1.4	5/14/2026
06048WL99	Bank of America	5/14/2021	2,000,000.00	1,905,700.00	2,000,000.00	1.4	467	1.4	5/14/2026

Investment Portfolio Detail
Fiscal Year 2024 - 2025
January 1 - January 31, 2025

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
06048WM64	Bank of America	7/12/2021	1,000,000.00	945,625.00	999,573.17	1.2	509	1.231	6/25/2026
06048WM72	Bank of America	7/30/2021	1,000,000.00	944,744.00	1,000,000.00	1.2	544	1.2	7/30/2026
06048WP20	Bank of America	9/24/2021	1,000,000.00	939,505.00	1,000,000.00	1.25	600	1.25	9/24/2026
06048WP20	Bank of America	9/24/2021	1,000,000.00	939,505.00	1,000,000.00	1.25	600	1.25	9/24/2026
06748WMK6	Barclays Bank PLC	10/29/2021	1,000,000.00	981,816.00	1,000,000.00	1	87	1	4/29/2025
17290A2M1	Citi Bank	7/21/2021	1,000,000.00	937,871.00	1,000,000.00	1.4	535	1.4	7/21/2026
38150AH99	Goldman Sachs	8/17/2021	1,000,000.00	940,188.00	1,000,000.00	1.35	562	1.35	8/17/2026
24422EVK2	John Deere Capital	1/27/2021	3,000,000.00	2,899,698.00	3,000,000.00	0.7	348	0.7	1/15/2026
48133MAB6	JP Morgan	8/15/2022	1,000,000.00	977,468.00	1,000,000.00	4.2	923	4.2	8/13/2027
48128G4X5	JP Morgan	8/30/2021	1,000,000.00	934,674.00	1,000,000.00	1.2	573	1.2	8/28/2026
48128G4X5	JP Morgan	8/30/2021	1,000,000.00	934,674.00	1,000,000.00	1.2	573	1.2	8/28/2026
53961LAF6	Local Initiatives Support	1/28/2021	1,510,000.00	1,446,442.59	1,510,000.00	0.95	348	0.95	1/15/2026
89236THZ1	Toyota Motor Credit	2/1/2021	2,000,000.00	2,000,000.00	2,000,000.00	0.4	2	0.4	2/3/2025
Supranational									
459058JA2	Intl Bank Recon & Dev	3/1/2021	1,000,000.00	996,148.00	1,000,245.52	0.75	38	0.526	3/11/2025
Treasury Coupon Securities									
91282CFP1	U.S. Treasury	10/3/2024	2,500,000.00	2,499,432.50	2,505,703.98	4.25	256	3.914	10/15/2025
91282CLS8	U.S. Treasury	11/26/2024	5,000,000.00	5,007,198.54	5,002,089.37	4.125	637	4.277	10/31/2026
Treasury Discounts -Amortizing									
912797MS3	U.S. Treasury	10/3/2024	2,500,000.00	2,432,227.50	2,436,377.54	3.77	243	3.935	10/2/2025
TOTAL			\$464,004,861.60	\$456,101,776.87	\$463,599,411.56				

Investment activities for the month of January 2025

Investment Purchases

No	Date	Transaction	CUSIP	Investment Security	Type	Par Amount	Investment Yield to Maturity	Maturity
	1/17/2025	Buy	3134HA3T8	Farmer Mac		10,000,000.00	4.550	1/14/2028
	1/16/2025	Buy	3133ERT27	Federal Farm Credit Bank		10,000,000.00	4.670	1/13/2028
	1/16/2025	Buy	3133ERN31	Federal Farm Credit Bank		5,000,000.00	4.340	12/23/2027

Total Purchases	\$ 25,000,000.00
------------------------	-------------------------

Investment Maturities, Calls & Sales

No	Date	Transaction	CUSIP	Investment Security	Type	Par Amount	Investment Yield to Maturity	Maturity
	1/8/2025	Call	3130ASPP8	Federal Home Loan Bank		1,000,000.00	4.300	8/8/2025
	1/9/2025	Maturity	3135GAL82	Federal National Mtg Assn		2,000,000.00	5.150	1/9/2025
	1/28/2025	Maturity	3130APKZ7	Federal Home Loan Bank		1,000,000.00	0.875	1/28/2025
	1/13/2025	Maturity	037833DF4	Apple Inc.		10,000,000.00	2.750	1/13/2025

Total Maturities, Calls & Sales	\$ 14,000,000.00
--	-------------------------

City of Oxnard

Monthly Investment Report

as of January 31, 2025

March 4, 2025

City Council

Presented by:

Javier Chagoyen-Lazaro, City of Oxnard
Chief Financial Officer

That The City Council receive and file the City of Oxnard Monthly Investment Report as of January 31, 2025.

City of Oxnard Cash and Investment as of January 31, 2025

Cash and Investment Position	January 2025
Cash	
Bank of America General Account	\$ 17,098,820.98
Bank of America Successor Agency Account	7,437,002.75
Bank of America Citations Account	323,494.78
Bank of America Golf Course Account	-
Total Cash	24,859,318.51
Investments	
Local Agency Investment Fund (LAIF)	75,000,000.00
Ventura County Investment Pool (VCIP)	51,164,861.60
Certificates of Deposits	-
Bank Notes	-
Municipal Bonds	-
Federal Agency	-
Supra-National Agency Bonds *	996,148.00
Medium Term Notes *	30,392,340.59
U.S. Treasury Notes *	9,938,858.54
U.S. Government Sponsored Entities *	288,609,568.14
Total Investments	456,101,776.87
Total Cash and Investments	\$ 480,961,095.38
* Market Value	

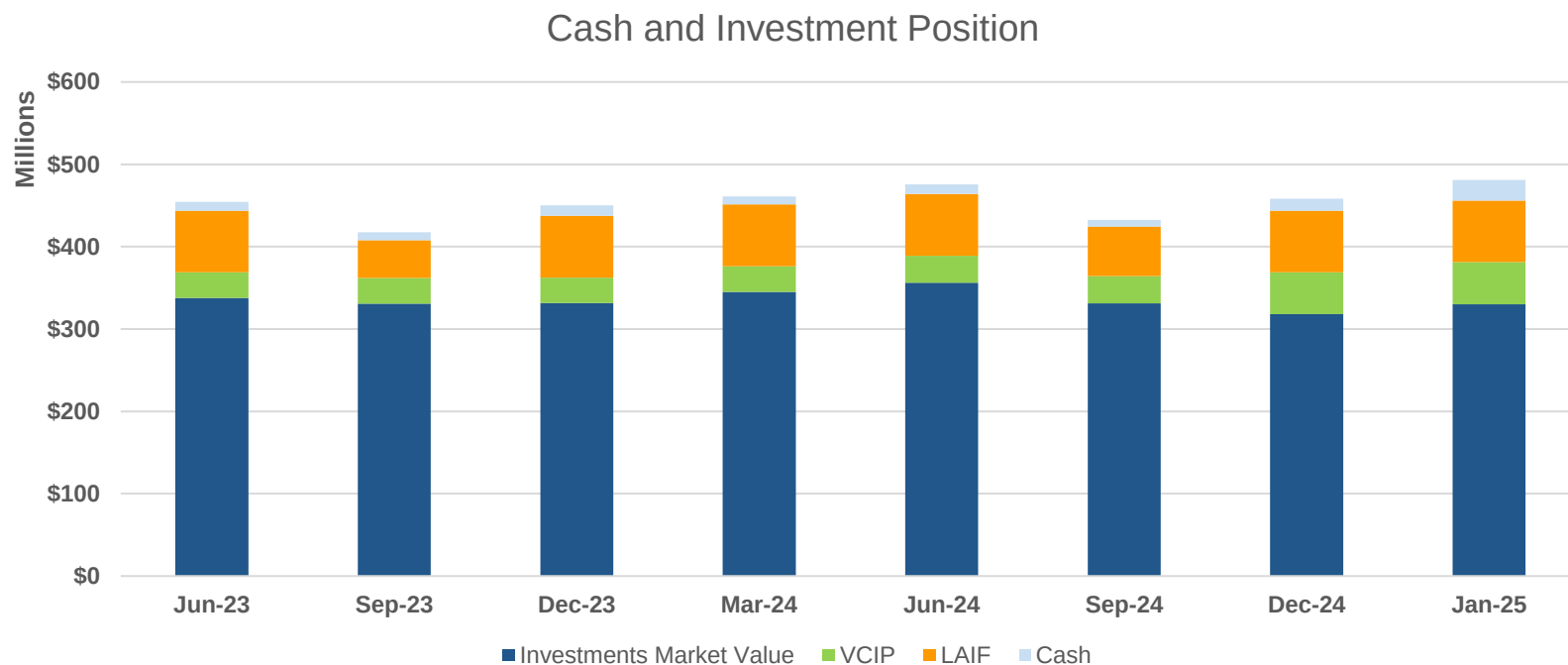
Page 1

Investment Compliance

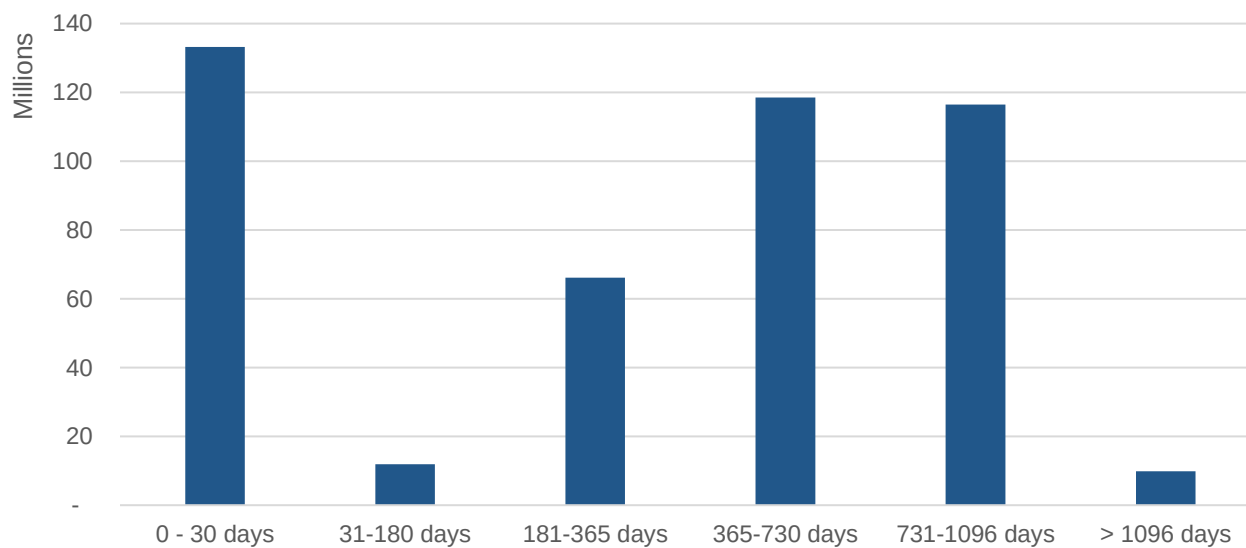
Authorized Investment at Market Value	Allowable Threshold (\$ million or %)	Under 1 year	1-3 years	Over 3 years	Total	Average Yield to Maturity	Portfolio %
LAIF	\$75.0	\$75.00	\$-	\$-	\$75.0	4.37%	16.44%
VCIP	n/a	51.2	-	-	51.2	4.53%	11.22%
Federal Agencies	n/a	66.9	211.8	9.9	288.6	2.56%	63.28%
Medium Term Notes	30%	12.2	18.1	-	30.4	1.50%	6.66%
Supranational	20%	1.0	-	-	1.0	0.53%	0.22%
Treasuries	n/a	4.9	5.0	-	9.9	4.04%	2.18%
Total Investment		\$211.3	\$234.9	\$9.9	\$456.1	3.02%	100%

*Total may not add due to rounding

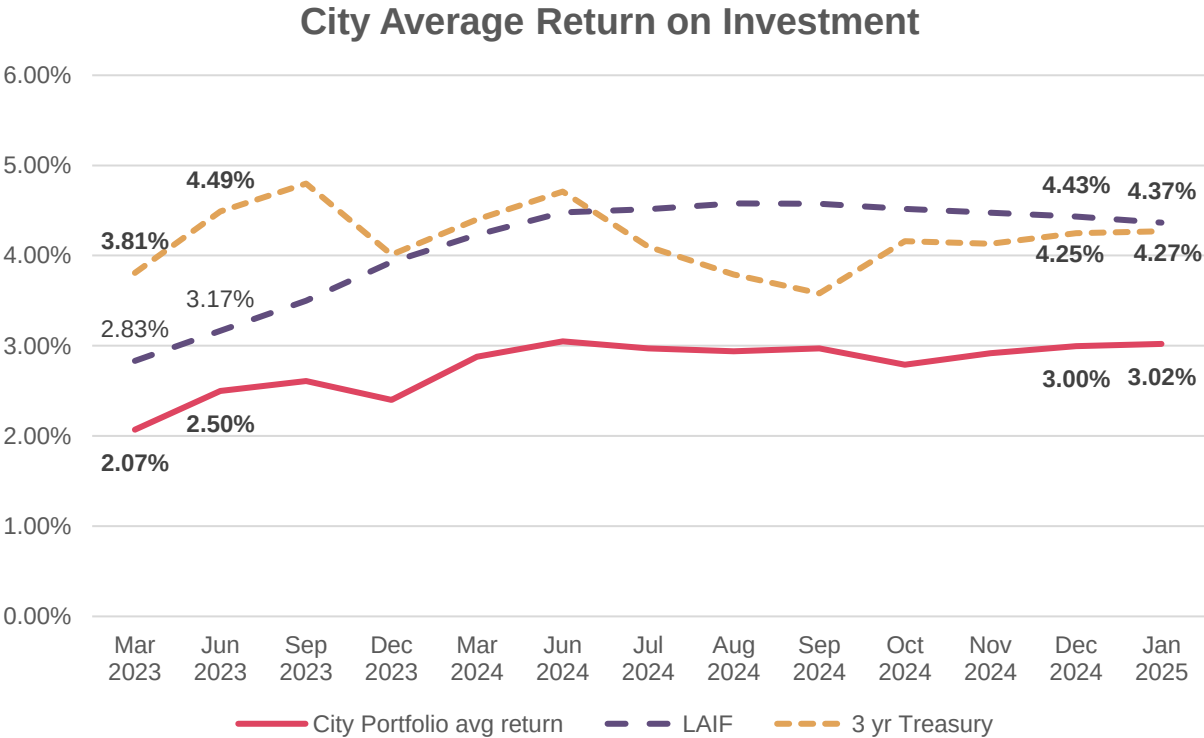
Cash and Investment Trend



Portfolio Maturity as of January 31, 2025



Investment Return Trend



That The City Council receive and file the City of Oxnard Monthly Investment Report as of January 31, 2025.



Questions / Discussion



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.4

DATE: March 4, 2025
TO: City Council
FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org
SUBJECT: Mobile Home Park Rent Stabilization System Annual Activity Report for 2024.

RECOMMENDATION

That the City Council receive and file the 2024 Annual Activity Report for the Mobile Home Park Rent Stabilization System, as adopted by the Mobile Home Park Rent Review Board.

(This item did not originate in Committee.)

BACKGROUND

The Mobile Home Park Rent Review Board is a quasi-judicial body established pursuant to Section 24-5 of the City Code. Pursuant to Section 24-6 of the City Code, the Board is required to submit an annual report of the Rent Stabilization System's activities to the City Council.

DISCUSSION

At its meeting on January 27, 2025, the Mobile Home Park Rent Review Board adopted the attached Annual Activity Report for 2024, and authorized Board Chairman Efrain Jimenez to execute and transmit the report to the City Council. In summary, the report includes the following highlights:

1. All twenty (20) mobile home park owners in Oxnard, applied for the maximum 3.32% Consumer Price Index (C.P.I.) space rent increase allowed under City Code Section 24-9(A)(1).
2. No homeowner associations challenged the proposed C.P.I increase; therefore, all applications were approved.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Brenda Lopez, Interim Housing Director

ATTACHMENTS

1. Mobile Home Park Rent Stabilization System Annual Activity Report 2024

ANNUAL ACTIVITY REPORT FOR 2024

CITY OF OXNARD MOBILE HOME PARK RENT REVIEW BOARD

1. THE BOARD

The Mobile Home Park Rent Review Board consists of three Commissioners who were appointed to three-year terms: Felipe Flores, appointed by City Council on January 23, 2018; Commissioner Efrain Jimenez, appointed by City Council on May 21, 2019; and Commissioner Yukio Okano, appointed by City Council on February 20, 2024.

Commissioner Martin Lee Remmen resigned effective November 1, 2024; and Commissioner Cynthia Daniels resigned effective November 30, 2024.

2. BOARD MEETINGS

The Rent Review Board met on April 10, 2024 and April 25, 2024

3. PROCESSING OF RENT INCREASE APPLICATIONS IN 2024

A. Types of Space Rent Increases

Chapter 24 of the City Code establishes two mechanisms by which owners of mobile home parks in the City may apply for general space rent increases. Chapter 24-9 of the Code defines the procedure for C.P.I. (Consumer Price Index) Formula Adjustment increase applications, and Chapter 24-10 creates the mechanism for applying for Discretionary Rent Increases.

B. Calculation of C.P.I. Space Rent Increases

The formula by which the maximum permissible C.P.I. space rent increase for which a park may apply is set forth in Chapter 24-9(A)(1), and is based on the change in the C.P.I. from August of one year to August of the next year. Whenever that change is 4 percent or less, the maximum permissible space rent increase for the next calendar year is equivalent to 100% of that August-to-August percentage change. If the percentage change in the CPI is greater than 4 percent but less than or equal to 9 percent, the permissible CPI formula adjustment shall be equal to 75 percent of the change in the CPI, or a 4 percent adjustment, whichever is greater. If the percentage change in the CPI is greater than 9 percent, the permissible CPI formula adjustment shall be equal to 67 percent of the change in the CPI.

Maximum permissible increases in recent years have been as indicated below:

2023:	5.74%	2016:	1.14%
2022:	4.0%	2015:	1.81%
2021:	2.02%	2014:	0.84%
2020:	2.97%	2013:	2.32%
2019:	3.87%	2012:	2.41%
2018:	2.82%	2011:	0.83%
2017:	1.43%	2010:	No increase

There was no increase permitted in 2010, as 2009 was a deflationary year.

The calculation of the permissible C.P.I. increase in 2024 is as follows:

<i>August 2023 C.P.I.:</i>	<i>324.050</i>
<i>Minus August 2022 C.P.I.:</i>	<i>- 313.608</i>
<i>Equals Net Change in C.P.I.</i>	<i>10.442</i>
<i>Divided by August 2022 C.P.I.:</i>	<i>/313.608</i>
<i>Equals decimal change in C.P.I.:</i>	<i>.0332 or 3.32%</i>

Since the percentage change in the C.P.I. is 4 percent or less, the permissible C.P.I. formula adjustment shall be equal to 100 percent of the change in the C.P.I.

Therefore, the maximum permissible C.P.I. rent increase for calendar year 2024 is **3.32%**

C. Park Applications for C.P.I. Formula Rent Increases in 2024

There are twenty (20) mobile home parks in Oxnard, ranging in size from 39 spaces to 265 spaces. All twenty (20) parks applied for 3.32% C.P.I. space rent increases to take effect in calendar year 2024:

Country Club Mobile Estates	Cypress Mobile Home Park
Evergreen R. V. Park	Imperial Oxnard Mobile Estates
Meadowlake Park	Oxnard Mobile Home Lodge
Ocean-Aire Mobile Estates	Oxnard Shores Mobile Home Park
Oxnard Pacific Mobile Estates	Royal Palms Mobile Estates
Pleasant Valley Mobile Home Park	Royal Duke Mobile Estates #2
Royal Duke Mobile Estates #1	Sunny Acres Park
Sunshine Manor Mobile Home Park	Silverwheel Mobile Home Park
The Colony Mobile Home Park	Valley Trailer Villa
Villa Capri Mobile Estates	Kona Kai Mobile Estates

D. Homeowner Association Protests of C.P.I. Rent Increase Applications

The Rent Stabilization System permits associations or groups of homeowners to challenge C.P.I. formula rent increase applications by filing a protest as defined in Chapter 24-2 of the City Code. When a protest is filed, the independent Hearing Officer conducts an evidentiary hearing, in accordance with Chapter 24-9(8) and 24-13 of the Code. If the Hearing Officer determines that the homeowners have presented evidence of a reduction in services by the park owner, and a monetary savings, the Hearing Officer may reduce the pending rent increase by the amount saved by the park owner due to the deletion of reduction in services provided to homeowners.

No Homeowner Association Protests of C.P.I. Rent Increase Applications were filed in 2024.

E. Discretionary Rent Increase Applications

The Rent Stabilization System provides an avenue for parks to apply for space rent increases in amounts greater than the C.P.I. Formula Adjustment method. When a park believes that it is not receiving a fair return on its investment, it may apply for a Discretionary Rent Increase. Such an application requires presentation of an audit; a review of the park's application by City staff; a review of the park's income and expenses by an independent Certified Public Accounting firm hired by the City; a report by that CPA to the Hearing Officer; a public hearing on the findings during which representatives of the affected homeowners and of the park owner present their evidence and arguments; and ultimately a written Decision with Findings of Fact, issued by the Hearing Officer. The requirements for the processing of Discretionary Rent Increase applications are set forth in Chapter 24-10 of the City Code, and City Council Resolution No. 11,468.

No Discretionary Rent Increase Applications were submitted in 2024.

F. Utility Passthrough Applications

The City Code also permits park owners to apply for approval to pass through utility costs when segregated out or separately metered to individual homesites within a mobile home park.

No Utility Passthrough Applications were submitted in 2024.

G. Hearings conducted by Independent Hearing Officer

Evidentiary hearings are required for the implementation of the rent stabilization ordinance. Rent increase, and change-of-occupancy determination hearings are adversarial in nature; passthrough hearings are investigative and non-adversarial.

All hearings are conducted by an independent professional hearing officer, selected through the City's formal procurement policies.

On May 13, 2024, the City's hearing officer, David Hart resigned.

In response to David Hart's resignation, the City issued a Request for Proposals (RFP) to solicit proposals for hearing officer services. Staff are in the process of selecting a new vendor and plan to have a hearing officer under contract in the first quarter of 2025.

4. APPEALS TO THE RENT REVIEW BOARD

Pursuant to Chapter 24 of the City Code, either party may appeal a Decision of the Hearing Officer if that party is dissatisfied with the ruling. Unlike appeals of rulings by the City's Planning Commission, however, appeals under the rent stabilization system do not go to the City Council. Any Hearing Officer decision which is appealed is presented to the full Mobile Home Park Rent Review Board, which conducts a review of the record in open session, in accordance with Section 24-15 of the City Code. The Board reviews the record, and entertains arguments from the parties, but does not receive testimony nor conduct a de nova hearing on the matter in dispute.

Between March 16, 2023 and March 20, 2023, a homeowner protest was filed by a group of homeowners in Kona Kai Mobile Estates. The protest petition challenges the legitimacy of Kona Kai's 2022 C.P.I Rent Increase Application which enacted a 4.0% rent increase imposed on April 1, 2022 and its potential impact on their 2023 C.P.I Rent Increase Application which proposes a 5.74% rent increase effective April 1, 2023. Based on the findings of the protest hearing, the Hearing Officer ruled that the park owners shall, within thirty (30) days of this Decision, refund or credit to homeowners the full amount of the 2023 rent increase increment that was collected from homeowners beginning in the month of April of 2023, for all months from April 2023 forward. The "full amount of the 2023 rent increase increment" is defined as the difference between the space rent for each that was approved effective April 1, 2021, and the amount of rent charged beginning in April of 2023; and the park owners must, within thirty (30) days of this Decision, returned space rents to levels which reflect the approved rent as of April 1, 2021, for each space. Any future applications for rent increase shall be calculated using the approved rent levels as of April 2021 as the basis for said future rent increases.

On October 3, 2023 the park owners of Kona Kai Mobile Estates filed an appeal to the decision by the Hearing Officer, David B. Hart, resulting from a homeowner protest that was filed by a group of homeowners in Kona Kai Mobile Estates challenging the legitimacy of Kona Kai's 2022 C.P.I. Rent Increase Application which enacted a 4.0% rent increase imposed on April 1, 2022 and its potential

impact on their 2023 C.P.I. Rent Increase Application which proposed a 5.74% rent increase effective April 1, 2023.

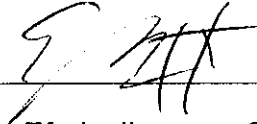
After the submission of the appeal, the owners of Kona Kai Mobile Estates and its homeowners entered into discussions trying to reach a settlement and avoid a hearing.

On April 25, 2024, a meeting of the Mobile Home Park Rent Review Board was held where the owners of Kona Kai Mobile Estates and the homeowners mutually decided to resolve any and all disputes between them regarding the rents that may be charged at the park through and including March 31, 2025. The stipulation was brought before the Board and confirm by the Board at the meeting.

5. ADOPTION

Pursuant to Chapter 24-6(C) of the Oxnard City Code, the 2024 Annual Activity Report of the Mobile Home Park Rent Review Board is hereby presented to the Oxnard City Council, having been adopted by a majority vote of the Commission at the Meeting of January 27, 2025.

Respectfully submitted,



Efrain Jimenez, Chair

Date: January 27, 2025



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.5

DATE: March 4, 2025

TO: Housing Authority

FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org

SUBJECT: Yardi Systems Inc., Software License and Service Agreement for Oxnard Housing Authority.

RECOMMENDATION

That the Oxnard Housing Authority Board of Commissioners approve and authorize the Chair to execute a five-year Software as a Service (SAAS) Subscription Agreement (A-8577) with Yardi Systems Inc., a database client software for the operations related to the Public Housing Program and the Housing Choice Voucher Program, in an aggregate amount of \$344,961.75 plus annual Consumer Price Index increases.

(The Community Services, Public Safety, Housing and Development Committee approved 3-0 on February 11, 2025.)

BACKGROUND

The Housing Authority of the City of Oxnard requires the use of a database client software for the operations related to the Public Housing Program and the Housing Choice Voucher Program (Section 8). Yardi Systems, Inc. (Yardi) has provided the client database software and support since December 2007. The existing agreement will expire on February 28, 2025.

DISCUSSION

On December 4, 2024, the Housing Authority of the City of Oxnard solicited bids for a fully integrated, web-based housing authority software and services. There were two responses to the solicitation; Yardi Systems, Inc. (Yardi) and MRI Real Estate Software (MRI). MRI's proposal was deemed unresponsive because it did not include costs and fees.

Yardi's proposal satisfies all of the threshold requirements outlined in the request for proposal. The scope of work includes software license fees, databases, administrator tools, software updates, application support and hosting support. In addition, the proposal includes a payment processing option for rent collection that is billed on a per transaction fee basis. The monthly cost of the payment processing component is based on actuals and billed in arrears. The OHA does not utilize the payment processing module.

Staff proposes an agreement with Yardi for a sixty-month (60) term at a total contract amount of \$344,961.75 (not including transaction fees for services) subject to a Consumer Price Index increase on each anniversary date.

A draft of the agreement was presented to Committee on February 11, 2025. There have been edits to the agreement to reflect compliance with Government Code Section sec. 7928.801 that declares confidentiality requirements null and void.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a

modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact to any City fund. The fees are included in the Oxnard Housing Authority's (OHA) adopted Low Rent Public Housing (LRPH) Operating Funds budget and the Housing Choice Voucher (HCV) Administrative Fees budget for Fiscal Year 2024-2025. Since this is a recurring expense, the fees will be included in the recommended Oxnard Housing Authority's LRPH Operating Funds budget and the HCV Administrative Fees budget for Fiscal Year 2025-2026, scheduled to be presented before City Council on June 17, 2025, and every fiscal year thereafter, until the agreement term expires.

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing and Development Committee approved 3-0 on February 11, 2025.

Prepared by: Brenda Lopez, Interim Housing Director

ATTACHMENTS

1. Agreement A-8577

EXHIBIT A

SAAS SUBSCRIPTION AGREEMENT

Yardi Systems, Inc., a California corporation headquartered at 430 South Fairview Avenue, Goleta, CA 93117 ("Yardi"), and

Oxnard Housing Authority ("Client")
435 S D St
Oxnard, CA 93030

enter into this agreement including any schedules, exhibits or other attachments (this "Agreement") effective as of the Effective Date [defined in section 1 (Definitions), below].

RECITAL

Yardi has developed certain application software for use by its clients in the real property and asset management industry. Yardi application software is available only in the Yardi Cloud [defined in section 1 (Definitions), below]. Client desires to access the Yardi Cloud to use such Yardi software pursuant to this Agreement's terms.

In consideration of their respective rights and obligations as set forth in this Agreement, the parties agree as follows:

AGREEMENT

1. Definitions.

a. "Anniversary Date" means the date that is 365 days after the Initiation Date, and each anniversary thereafter of the date that is 365 days after the Initiation Date, during this Agreement's Term.

b. "Business Purposes" means accessing the Yardi Cloud to use the Licensed Programs and Yardi Cloud Services for Client's property management and accounting, and related business purposes.

c. "Client Data" means the data that Designated Users transmit and/or enter into the database provided as part of the Yardi Cloud in connection with their Use of the Licensed Programs pursuant to this Agreement.

d. "Contractor" means a contractor who: (i) has an Independent Consultant Network License Agreement with Yardi; and (ii) is a current member in good standing of Yardi's Independent Consultant Network.

e. "Deliverable" means any deliverable or intellectual property delivered to Client as part of Programming Services [defined in section 14 (Programming Services)] or other services provided pursuant to this Agreement.

f. "Designated User" or "DU" means a Client employee or Contractor designated by Client to access the Yardi Cloud and Use the Yardi Cloud Services and Licensed Programs for Business Purposes.

g. "Effective Date" means the date of the last party signature on this Agreement..

h. "Fees" means the fees identified in Schedule A (Fee Schedule), and any other fees that may become due under this Agreement.

i. "Force Majeure Event" means any event beyond the reasonable control of the party affected by such event, including without limitation fire, storm, weather, earthquake, explosion, casualty, strike, war, riot, civil disturbance, act of God, acts or omission of any third party, any state or national law, decree, or ordinance, or any executive or judicial order, which event causes a party to delay or fail to perform under this Agreement.

j. "Initiation Date" means March 1, 2025.

k. "Licensed Programs" means the software program(s)

identified in Schedule A (Fee Schedule).

l. "Licensed Programs Documentation" means the user manuals and documentation for the Licensed Programs.

m. "Password" means the unique username and password assigned by Client to each Designated User as more fully described in section 6 (Users and Passwords).

n. "POC(s)" means the person(s) Client identifies to Yardi as point(s) of contact for application support services and other account management purposes.

o. "Undisputed Fees" means all Fees due from Client under this Agreement which Client does not reasonably and in good faith dispute - and provide notice of such dispute in accord with section 18(f) (Notices) - within 30 days of invoice.

p. "Use" means authorized access to the licensed software in the Yardi Cloud and use of the Licensed Programs and Licensed Programs Documentation by Designated Users solely for Business Purposes.

q. "Yardi Cloud" means the hardware, software, storage, firewalls, intrusion detection devices, load balancing units, switches and other hardware that make up the Yardi Cloud.

r. "Yardi Cloud Services" means installation, maintenance and service of the hardware and software comprising the Yardi Cloud.

2. License Grant: Restrictions: Access to Yardi Cloud.

a. **Licenses.** Yardi grants to Client a non-exclusive, non-transferable (except as expressly provided in this Agreement), limited license for Designated Users to: (i) access the Yardi Cloud and Use the Licensed Programs and Yardi Cloud Services solely for Business Purposes; and (ii) access the Licensed Programs Documentation and other content on Yardi's Client Central website solely for Business Purposes and subject to the terms of use then-presented on Client Central.

b. **Restrictions.** Client may only exercise the license granted in section 2(a) (Licenses) through its Designated Users. Client may not rent, lease, sell, transfer (by sublicense, assignment or otherwise except as expressly provided by this Agreement), time share, modify, reproduce, copy, make derivative works from, distribute, publish, use to provide service bureau services, or publicly display

the Licensed Programs. Client may only Use the Licensed Programs for Business Purposes. Client may not reverse engineer, decompile or otherwise attempt to discover the source code for the Licensed Programs. Client may not permit any person or entity to breach the restrictions in this section 2(b) (Restrictions). Client may not copy or re-create the Licensed Programs or its objects without Yardi's prior express written consent. Client agrees that the Licensed Programs must remain at all times in the Yardi Cloud, and may not be removed or copied to any other location at any time. Client acknowledges and agrees that Client may not perform scans or electronic testing of any kind on the Yardi Cloud, Licensed Programs, Yardi's corporate networks, and Yardi's corporate servers including, without limitation, vulnerability scanning or testing, penetration scanning or testing or any other type of scanning or testing of the Yardi Cloud, Licensed Programs, Yardi's corporate networks, and Yardi's corporate servers.

c. **Access to the Yardi Cloud.** Yardi will use commercially reasonable efforts to make the Yardi Cloud and the Licensed Programs accessible to Designated Users 24-hours per day, 7 days per week, excluding down time for maintenance and repair. Yardi has standing maintenance/repair/backup hours from 11:00 pm (local time at the data center) each day to 1:00 am (local time at the data center) each succeeding day, and an additional 2 hours for the maintenance/repair/backup hours beginning at 11:00 pm (local time at the data center) each Saturday night [i.e., the Saturday-night-to-Sunday-morning standing maintenance/repair/backup hours extend an extra 2 hours until 3:00 am (local time at the data center) each succeeding Sunday]. Yardi will use commercially reasonable efforts to provide as much notice to Client as reasonably possible under the circumstances for emergency maintenance/repair downtime outside the aforementioned standing hours.

3. **Term and Termination.**

a. **Term.** This Agreement will commence on the Effective Date and shall remain in full force for an initial term of sixty (60) months, ending on February 28, 2030, (the "Initial Term") unless earlier terminated in accord with this Agreement. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive 1-year terms (each a "Renewal Term") if (i) Client tenders payment of Client's then-current Total Annual Fee, and (ii) neither party provides written notice of non-renewal at least 30 days prior to expiration of the then-current (Initial or Renewal) Term. The Initial Term and Renewal Term(s) shall be collectively referred to as the "Term."

b. **Intentionally Omitted.**

c. **Termination for Cause.** Either party may terminate this Agreement upon written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach within 7 days of written notice of a material breach, or if the breaching party cannot reasonably cure the material breach within 7 days, the breaching party fails to initiate cure within 7 days and fails to continuously and diligently work to cure the breach until the breach is cured. Termination pursuant to this section 3(c) (Termination for Cause) shall be effective upon delivery of written notice after expiration of the applicable cure period.

d. **Effect of Termination.** Upon the effective date of this Agreement's termination or expiration: (i) the license for the Licensed Programs and Licensed Programs Documentation will terminate; (ii) Client will cease Use of the Yardi Cloud, Yardi Cloud Services, Licensed Programs and Licensed Programs Documentation; (iii) Client's access to the Yardi Cloud and Licensed Programs will be disabled; and (iv) Client shall pay any Undisputed Fees to Yardi.

e. **Survival.** The parties' obligations under, and the provisions

of, sections 4 (License Fees), 8(b) (Limited Liability for Unauthorized Client Data Access), 9 (Confidentiality), 10 (Warranties), 11 (Damage Limitations), 13 (Indemnification), 15 (Assignment) and 18 (General Provisions) shall survive this Agreement's termination or expiration.

4. **License Fees.**

a. **Fees.** Client agrees to pay Yardi the Fees in accordance with the payment terms set forth in Schedule A (Fee Schedule).

b. **Failure to Pay.** Client's failure to timely pay any Undisputed Fee when due is a material breach subject to the terms of section 3(c) (Termination for Cause).

c. **Taxes.** The Fees are exclusive of any tariff, duty, or tax, however designated, levied, or based including, without limitation, any taxes based on: (i) this Agreement; (ii) the Licensed Programs, Yardi Cloud, Yardi Cloud Services, or Deliverables; (iii) Client's Use of the Yardi Cloud, Yardi Cloud Services, or Licensed Programs; (iv) the Licensed Programs Documentation; or (v) any materials or supplies furnished by Yardi per this Agreement. Client is responsible for all applicable tariffs, duties, or taxes (exclusive of taxes based on Yardi's net income) applicable to this Agreement.

d. **Partial Fee Disputes.** If Client reasonably and in good faith disputes any Fees, and provides notice in accord with section 18(f) (Notices) of such dispute, Client agrees that any undisputed portion of such Fees are Undisputed Fees and Client agrees to timely pay any such Undisputed Fees.

5. **Implementation and Training.**

a. **Third Party Software and Hardware Requirements.** Client is solely responsible for purchasing, installing, and maintaining, at Client's expense, any third party software and hardware necessary for Designated Users to access the Yardi Cloud and Use the Licensed Programs and Yardi Cloud Services. Yardi shall not be liable for any such third party software or hardware, and Client acknowledges and agrees that any assistance provided by Yardi in connection with such third party software and hardware shall not alter Client's responsibility or Yardi's liability disclaimer under this section 5(a) (Third Party Software & Hardware Requirements).

b. **Location.** Implementation and training services may (at Client's election) take place at a location specified by Client or via telecommunications. Yardi will bill Client for initial implementation/training services as indicated in Schedule A (Fee Schedule). Client may request additional on-site implementation/training services [i.e., in addition to the on-site implementation/training services set forth in Schedule A (Fee Schedule)] at any time and Yardi will make commercially reasonable efforts to timely accommodate Client's request. Additional on-site implementation/training services are subject to the parties' mutual agreement on: (i) the schedule for performance of the additional services; and (ii) Yardi's Fees for the additional services. Client acknowledges and agrees that no recording of any sort (whether audio, visual, or otherwise) of Yardi Implementation/Training services is allowed under this Agreement or otherwise.

c. **On-Sites.** Client acknowledges that in-person implementation/training service visits at a Client location require a minimum visit of 8 hours per visit. Client agrees to pay all expenses associated with on-site visits incurred in accordance with Yardi's then-current travel and expense policy. Client acknowledges that training services for more than 12 Client trainees require Client to pay for 1 additional Yardi trainer for each 12 Client trainees in excess of 12. Client agrees that Client must pay for any implementation/training services cancelled less than 10 business days prior to their scheduled date.

d. **Data Conversion.** Yardi will bill Client for electronic data
Page 2 of 12

Confidential

Preparation Date: February 20, 2025 9:47 AM

conversion services, if initially ordered, at the rate stated in Schedule A (Fee Schedule). Absent an agreement to the contrary, Client shall otherwise be solely responsible for data conversion, data preparation, data entry and data verification, and any post-conversion clean-up. Additional Yardi data conversion services [i.e., in addition to any initial data conversion services set forth in Schedule A (Fee Schedule)] are subject to the parties' mutual agreement on: (i) the schedule for performance of the additional services; and (ii) Yardi's Fees for the additional services.

e. **Testing.** Client shall have 90 days commencing upon the Effective Date (the "**Testing Period**") to test the Licensed Programs, Yardi Cloud and Yardi Cloud Services. At any time during the Testing Period, Client may elect to cease Use of the Licensed Programs, Yardi Cloud and Yardi Cloud Services and cancel this Agreement, in which event Yardi will refund to Client all amounts paid by Client to Yardi pursuant to this Agreement less reasonable amounts [determined by reference to the Fees/rates indicated in Schedule A (Fee Schedule)] for initial set-up, implementation, training and support of the Licensed Programs, Yardi Cloud and Yardi Cloud Services provided prior to Client's notice of cancellation pursuant to this section 5(e) (Testing).

6. Users and Passwords.

a. **Designated Users.** Client agrees that its exercise of the license granted by this Agreement shall only be through its Designated Users. Client's license to access and Use the Yardi Cloud and Licensed Programs is limited as provided in Schedule A (Fee Schedule). Each Designated User must have a unique Password.

b. **Password Assignment.** Client's application support POC(s) will be Designated Users, will designate the other Designated Users, and will provide each other Designated User with a Password. Each Password shall be personal and unique to the applicable Designated User, and may not be used by anyone other than such Designated User. Each Password may only be used from 1 computer at any given time. Client shall be responsible for maintaining Designated User Password security.

c. **Client Obligations with Respect to Designated Users.** Client shall inform each Designated User of this Agreement's terms and restrictions and shall enforce such restrictions. Client agrees to notify Yardi if Client becomes aware of any failure of a Designated User to adhere to the license terms and restrictions in this Agreement.

7. Application Support & Upgrades.

a. **Application Support Service.** Yardi will provide application support and upgrades for the Licensed Programs as set forth in this section 7 (Application Support & Upgrades).

b. **Client Contacts.** Client agrees to appoint application support POC(s). Client may change the application support POC(s) upon advance written notice to Yardi. Yardi shall have no obligation to contact, or communicate with, anyone regarding application support and maintenance issues except Client's application support POC(s). Client acknowledges that it is Client's responsibility to keep Client's application support POC(s) current, and to notify Yardi of any changes.

c. **Yardi Contacts.** During initial implementation, Yardi shall appoint an account manager to Client's account. After initial implementation, Yardi will either assign Client to an account manager or an application support team. Yardi may change the identity of individual account managers from time to time upon notice to Client. Client's application support records relating to Client will be available to Yardi's entire application support team at all times.

d. **Application Support Services.** Yardi shall provide appli-

cation support for the Licensed Programs through its account managers and technical staff to Client's application support POC(s). Application support does not include on-site installation, implementation, training, or testing of the Licensed Programs, nor does it include data conversion. Those services, if initially ordered, are specified in Schedule A (Fee Schedule). Yardi's application support service team will use commercially reasonable efforts to address and solve Client's issues but cannot guarantee satisfaction in every case.

e. **Total Hours Included.** Client's annual application support allotment is specified in Schedule B.

f. **Application Support Hours.** Yardi's application support hours are from 5:00 am to 5:00 pm (Pacific Time) Monday through Friday (excluding holidays).

g. Priority.

(i) Yardi shall have the right to prioritize application support requests according to the application support issue's impact on Client. Yardi will prioritize application support requests in the following order:

Priority 1: Business halted (total inability to perform normal operation)

- Client will submit support requests by telephone to Yardi's application support number.
- Response as rapid as reasonably feasible – generally within 2 business hours.

Priority 2: Business impacted (severe restriction of Client's Use of the Licensed Programs – a potentially critical problem)

- Client will submit support requests by telephone to Yardi's application support number.
- Prompt response subject only to delays for priority 1 issues, generally within 4 business hours.

Priority 3: Non-critical service requests (any issue that is not a Priority 1 or Priority 2 issue)

- Client will submit support request by telecommunications to Yardi application support.
- Response subject to delays for priority 1 and 2 issues, generally within 1 business day.

(ii) Yardi will work on Priority 1 and 2 issues with continuous focus, and with Client's cooperation, through resolution.

h. **Standard Term.** Application support services are subject to this Agreement's terms and timely payment of all Undisputed Fees. Subject to the section 3(c) (Termination for Cause) notice and cure provisions, Yardi may suspend application support services if Client fails to timely make any Undisputed Fee payment.

i. **Obsolescence.** Yardi reserves the right to cease providing application support services for the Licensed Programs on the later of: (i) 3 years from the date on which Yardi ceases to license the Licensed Programs; or (ii) 5 years from the Effective Date. Yardi agrees to notify Client if and when Yardi will cease application support services in accord with this section 7(i) (Obsolescence).

8. Client Data.

a. **Client Data Storage.** Subject to Force Majeure Events, Yardi agrees to store Client Data on a virtual database server in the Yardi Cloud.

b. **Limited Liability for Unauthorized Client Data Access.** Yardi agrees to use: (i) firewalls and other technology generally used in the trade to prevent unauthorized third party access to its

computer systems storing Client Data; and (ii) encryption technology generally used in the trade to prevent unauthorized third party access to Client Data transmissions. Notwithstanding the foregoing, Yardi shall not be liable to Client in the event that: (A) its use of firewalls and other technology generally used in the trade fails to prevent unauthorized third party access to Client Data; or (B) its use of encryption technology generally used in the trade fails to prevent unauthorized third party access to Client Data transmissions. Nothing in this section 8(b) (Limited Liability for Unauthorized Client Data Access) shall constitute a representation or warranty by Yardi that Client Data storage or transmission will be inaccessible to unauthorized third parties.

9. Confidentiality.

a. **Confidential Information Definition.** “Confidential Information” means all technical and non-technical information including: (i) Client Data; (ii) patent, copyright, trade secret, and other proprietary information; (iii) inventions, know-how, processes, or algorithms; (iv) software programs, software source documents, object code, source code, database dictionaries, network diagrams, UML diagrams, Licensed Programs, Licensed Programs Documentation, Licensed Programs schema, Licensed Programs functions, Licensed Programs user interface screens, SSIS, data warehouse schema, cube specifications and configuration, the reports generated by the Licensed Programs, Yardi Cloud specifications and configuration, Yardi Cloud hardware specifications and configuration, and Yardi Cloud Services; (v) development, design details and specifications; (vi) a party's financial information; (vii) customer lists, business forecasts, sales and marketing plans and information; (viii) the prices offered or paid per this Agreement for Yardi's products and services; (ix) SSAE18 audit reports and any information related to SSAE18 audit reports; (x) any information related to PCI DSS compliance; (xi) ~~this Agreement's terms~~ (with the exception for disclosing the Agreement's terms to the extent necessary under applicable law for city council approval); and (xii) any other information disclosed by a party, or to which a party is exposed because of this Agreement, that the disclosing party identifies as confidential at the time of disclosure or which – by its nature – reasonably should be regarded as confidential.

b. **Nondisclosure and Nonuse Obligations.** Each party (the “Receiving Party”) agrees that it will not disseminate, distribute, expose, or in any way disclose any Confidential Information of the other party (the “Disclosing Party”) to any third party. The Receiving Party may use the Disclosing Party's Confidential Information to the extent necessary to perform its obligations under this Agreement. The Receiving Party's employees and Contractors may use Confidential Information only for the specific business purpose for which it was made available and not for any other purpose. The Receiving Party's employees and Contractors may not use Confidential Information in any way that may compete with Disclosing Party. The Receiving Party may not disclose Confidential Information to its employees and Contractors for the purpose of enabling any such employees or Contractors to service, maintain, or modify the Licensed Programs. The Receiving Party agrees that it will treat all Confidential Information with the same degree of care as the Receiving Party accords its own Confidential Information, but in no event less than reasonable care. The Receiving Party agrees that it shall disclose Confidential Information only to those of its employees and Contractors who need to know such information, and the Receiving Party certifies that such employees and Contractors have previously agreed, either as a condition to employment or in order to obtain the Confidential Information, to be bound by terms and conditions applicable to the Receiving Party under this Agreement. The Receiving Party shall immediately give notice to the Disclosing Party of any unauthorized use or disclosure of the Disclosing Party's Confidential Information. The Receiving Party agrees to assist the Disclosing Party in remedying any such unauthorized use or disclosure of Disclosing Party's Confidential Information.

c. **Exclusions from Nondisclosure and Nonuse Obligations.** The Receiving Party's obligations per section 9(b) (Nondisclosure and Nonuse Obligations) shall not apply to Confidential Information that the Receiving Party can document: (i) was (through no fault of the Receiving Party) in the public domain at or subsequent to the time the Disclosing Party disclosed the information to the Receiving Party; (ii) was rightfully in the Receiving Party's possession free of any confidentiality obligation at or subsequent to the time the Disclosing Party disclosed it to the Receiving Party; or (iii) was developed by the Receiving Party's employees or agents independent of, and without reference to, any information communicated to the Receiving Party by the Disclosing Party. A Confidential Information disclosure by the Receiving Party either: (A) in response to an enforceable order by a court or other governmental body; (B) as otherwise required by law (for the avoidance of doubt, Client is a municipal corporation subject to the California Public Records Act); or (C) necessary to establish the rights of either party under this Agreement, shall not be a breach of this Agreement by the Receiving Party or a waiver of confidentiality for other purposes; provided, however, the Receiving Party shall provide prompt prior written notice of any such Confidential Information disclosure to the Disclosing Party (to the extent allowed by applicable law) to enable the Disclosing Party to seek a protective order or otherwise prevent such disclosure.

d. **Ownership and Return of Confidential Information.** The Disclosing Party's Confidential Information is and shall remain the Disclosing Party's property, and this Agreement does not grant or imply any license or other rights to the Disclosing Party's Confidential Information except as expressly set forth in this Agreement. Within 5 business days after the Disclosing Party's request, the Receiving Party will promptly either (at the Disclosing Party's election) destroy or deliver to the Disclosing Party all Confidential Information furnished to the Receiving Party, and the Receiving Party agrees to provide a written officer's certification of the Receiving Party's compliance with the foregoing obligation.

e. **Third Party Information Disclosure.** The Disclosing Party shall not communicate any information to the Receiving Party in violation of the proprietary rights of any third party.

10. Warranties.

a. **Limited Software Warranty.** Yardi warrants that the Licensed Programs will perform substantially as specified in the Licensed Programs Documentation. Yardi does not warrant that the Licensed Programs will meet Client's requirements and expectations.

b. **Remedy for Limited Software Warranty Breach.** If Yardi breaches the warranty set forth in section 10(a) (Limited Software Warranty), Yardi agrees to use commercially reasonable efforts to modify the Licensed Programs so that the Licensed Programs conform to that warranty. If such modification is not commercially reasonable, then Yardi will notify Client and Client may terminate this Agreement. In the event Client terminates this Agreement per this section 10(b) (Remedy for Limited Software Warranty Breach), Yardi will refund to Client, on a pro-rata basis, the annual Fees paid by Client to Yardi within the year prior to the effective date of Client's termination. THE FOREGOING REMEDY IS CLIENT'S SOLE REMEDY IN THE EVENT OF A BREACH OF THE WARRANTY SET FORTH IN SECTION 10(a) (Limited Software Warranty).

c. **Warranty Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, YARDI DISCLAIMS ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES WITH REGARD TO THE LICENSED PROGRAMS INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MER-

CHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

d. **Internet Performance Disclaimer.** Yardi does not and cannot control the flow of data via the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt the internet. Yardi will use commercially reasonable efforts to remedy and avoid such events, but cannot guarantee that such events will not occur. Accordingly, Yardi disclaims any liability resulting from or relating to such events.

11. Damage Limitations.

a. **Damage Waiver.** REGARDLESS OF ANY OTHER PROVISION IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YARDI DISCLAIMS ALL OBLIGATIONS AND LIABILITIES FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF YARDI HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT.

b. **Liability Limit.** IN ADDITION TO THE LIMITATIONS OTHERWISE SET FORTH IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, CLIENT AGREES THAT IN THE EVENT OF ANY CLAIM OR CAUSE OF ACTION BY CLIENT ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT, YARDI'S MAXIMUM LIABILITY TO CLIENT, REGARDLESS OF THE AMOUNT OF LOSS CLIENT MAY HAVE SUFFERED, SHALL NOT EXCEED THE FEES PAID BY CLIENT TO YARDI PURSUANT TO THIS AGREEMENT WITHIN THE YEAR PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.

12. Ownership.

a. **Yardi's Ownership.** Client agrees that, as between Yardi and Client, Yardi is and shall remain the sole and exclusive owner of all right, title and interest in and to the Licensed Programs, Deliverables, Yardi Cloud, Yardi Cloud Services, and Licensed Programs Documentation, and to all intellectual property rights in the foregoing. The only rights Client obtains in the Licensed Programs, Deliverables, Yardi Cloud, Yardi Cloud Services, and Licensed Programs Documentation are the licenses expressly granted to Client in this Agreement.

b. **Client's Ownership.** Yardi agrees that, as between Yardi and Client, Client is and shall remain the sole and exclusive owner of all right, title, and interest in and to Client Data. Client represents and warrants that Client has all necessary rights, title, and interest in and to all materials and/or content that Client provides for, or uploads to: (i) the database(s) associated with the Licensed Programs; (ii) the Yardi Cloud; and/or (iii) any Yardi-hosted site; including, without limitation, materials and/or content that Client provides for use on Client's RentCafe portal(s) and documents that Client uploads to FillDocs, eDocs, RentCafe Lease Documents, or EHR suite (collectively, "**Client Content**"). Client acknowledges and agrees that Yardi has no responsibility or duty to review, approve, or pre-screen Client Content that Client provides for, or uploads to: (A) the database(s) associated with the Licensed Programs; (B) the Yardi Cloud; and/or (C) any Yardi-hosted site. Client grants Yardi a worldwide, non-exclusive, royalty-free license and right to use, reproduce, distribute, modify, and display Client Content in connection with Business Purposes. Client acknowledges and agrees that if a third party believes their copyright has been infringed by any Client Content, Yardi has implemented policies in accordance with the Digital Millennium Copyright Act, 17 U.S.C. Section 512, and Yardi reserves the right to remove any material found to be infringing under Yardi's aforementioned policies.

13. Indemnification.

a. **Yardi Indemnity.**

(i) **Indemnity.** Yardi agrees to defend, indemnify, and hold Client harmless from and against any third party claims, actions or demands alleging that Client's Use of the Yardi Cloud, Yardi Cloud Services, Licensed Programs, Licensed Programs Documentation, and Deliverables in accordance with this Agreement's terms infringes on a third party's proprietary information, trademark, copyright, patent rights or intellectual property rights, or misappropriates a third party's trade secrets.

(ii) **Indemnity Conditions.** Yardi's defense and indemnification obligations per section 13(a)(i) (Indemnity) are conditioned upon the following: (I) Client providing Yardi with prompt written notice of any claim for which indemnification is sought; (II) Yardi having sole control of the defense and settlement of such claim, provided, however, that Client shall have the right to have any suit or proceeding monitored by counsel of Client's choice and at its expense; and (III) Client's reasonable cooperation with Yardi in the defense and settlement of the claim.

(iii) **Injunction.** If the Licensed Programs become the subject of a patent, trademark, copyright, or trade secret misappropriation or infringement claim, and such claim results – or is reasonably likely to result – in an injunction against Client's continued Use of the Licensed Programs, Yardi will: (I) replace or modify the Licensed Programs to avoid the misappropriation/infringement claim; (II) secure Client's right to continue Use of the Licensed Programs; or (III) if neither (I) or (II) is commercially practicable, either party may terminate this Agreement upon written notice to the other party.

b. **Client Indemnity.**

(i) **Indemnity.** Client agrees to defend, indemnify, and hold Yardi harmless from and against any third party claims, actions or demands alleging that Yardi's use, reproduction, distribution, modification, and/or display of Client Content for Business Purposes in accordance with this Agreement's terms infringes on a third party's proprietary information, trademark, copyright, patent rights or intellectual property rights, or misappropriates a third party's trade secrets.

(ii) **Indemnity Conditions.** Client's defense and indemnification obligations per section 13(b) (Indemnity) are conditioned upon the following: (I) Yardi providing Client with prompt written notice of any claim for which indemnification is sought; (II) Client having sole control of the defense and settlement of such claim, provided, however, that Yardi shall have the right to have any suit or proceeding monitored by counsel of Yardi's choice and at its expense; and (III) Yardi's reasonable cooperation with Client in the defense and settlement of the claim.

14. Programming Services.

a. **Programming Services.** Yardi provides programming services including, without limitation, database customizations, user interface customizations, database reports, database scripts and other programming services (collectively, "**Programming Services**").

b. **Programming Services Terms.** The Fees for Programming Services, if initially ordered, are set forth in Schedule A (Fee Schedule). Client will otherwise initiate Programming Service requests by providing written notice of the desired services to Yardi, and Yardi will advise Client of Yardi's availability and schedule for performing the Programming Services. Programming Services are subject to Client's written acceptance of: (i) Yardi's schedule for meeting Client's Programming Service request; and (ii) Yardi's Fees for such Programming Services.

c. **Deliverables License.** Subject to Client's full payment of all Undisputed Fees related to Programming Services, Yardi grants to Client a non-exclusive, non-transferable (except as expressly provided in this Agreement), limited license for Designated Users

Page 5 of 12

Confidential

Preparation Date: February 20, 2025 9:47 AM

to Use the Deliverables in connection with their Use of the Licensed Programs, Yardi Cloud and Yardi Cloud Services.

15. Assignment.

a. **Assignment Limitation.** Except for the exceptions specified in section 15(b) (the "Permitted Exceptions"), Client shall not (either directly or indirectly) assign, sell, convey, pledge, or otherwise transfer this Agreement without first obtaining Yardi's express written consent, which Yardi shall not unreasonably withhold. Except for the Permitted Exceptions, any attempted assignment made without Yardi's prior express written consent is void and a material breach of this Agreement.

b. **Permitted Exceptions.** Subject to the conditions precedent set forth in this section 15(b) (Permitted Exceptions), Client may assign this Agreement without Yardi's prior consent and upon notice: (i) to a wholly owned subsidiary; or (ii) in connection with any merger, acquisition, or reorganization involving Client. Any assignment is subject to the following conditions: (A) Client, or Client's successor, continuing in the same type of business that Client was conducting at the time of this Agreement's execution; and (B) Client or Client's successor providing to Yardi a written ratification and assumption of this Agreement (in a form reasonably satisfactory to Yardi) concurrent with the assignment.

16. Outsourcing.

a. **Server Location.** Yardi reserves the right to locate the virtual servers and other equipment needed to provide the Yardi Cloud either at its facilities or at the facilities of independent service providers. Yardi may change the location of the virtual servers and other equipment needed to provide the Yardi Cloud at any time during this Agreement's Term; provided that any such change of location shall not affect Yardi's obligations under this Agreement and shall not interrupt Client's access to the Yardi Cloud, Client Data, and Licensed Programs.

17. Mediation.

a. **Mediation Request; Condition Precedent.** In the event of a dispute arising out of or related to this Agreement which the parties are unable to resolve through direct negotiation, either party may serve upon the other at its principal place of business a request for mediation. Neither party may file an action against the other in any court, or initiate any other legal proceeding, unless and until the party seeking to do so has first requested a mediation hearing and made a good faith effort to complete the mediation process provided in this Agreement.

b. **Mediation Process.** The parties will select a neutral, independent mediator with experience in the relevant subject matter by the rules of the office of the Judicial Arbitration and Mediation Service (JAMS) closest to the mediation venue. The parties shall conduct the mediation not less than 10 or more than 20 days from the date the party requesting mediation gives notice of the request for mediation to the other party. The parties shall conduct the mediation in Santa Barbara, California. The parties shall equally bear the mediation costs.

c. **Mediation Confidentiality.** The parties shall maintain the mediation proceedings in confidence and shall not disclose to third persons the statements made in mediation by the other parties or the mediator. The mediation confidentiality provisions of California Evidence Code sections 1115 – 1128 shall apply to the mediation proceedings.

d. **Mediation Statements; Attendee Authority.** At least 5 days before the date of the mediation, each party shall provide the mediator and the other party with a statement of its position and copies of supporting documents. Each party shall send to the mediation a person who has authority to bind the party.

e. **Non-Binding.** If a party participates in good faith in a mediation and is dissatisfied with the outcome, that party may then invoke all legal rights and remedies available to the party at law or in equity.

18. General Provisions.

a. **Independent Contractor Status.** The parties agree that they are independent contractors and nothing in this Agreement is intended to make the parties partners, agents, joint venturers, or any other form of joint enterprise, or to make the employees, agents, or representatives of one of the parties into employees, agents, or representatives of the other party. No party to this Agreement shall have any express or implied right or authority to assume or create any obligations on behalf of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

b. **Governing Law.** This Agreement shall be governed and determined by the laws of the United States and the State of California as such laws are applied to agreements made and performed entirely within the State of California.

c. **Venue.** Any action or proceeding related to or arising out of this Agreement shall be resolved only in a court of competent jurisdiction in the City of Santa Barbara, State of California (or the court of competent jurisdiction closest to the City of Santa Barbara, CA if no court of competent jurisdiction resides in the City of Santa Barbara, CA), and the parties consent to the personal jurisdiction of such courts and expressly waive any right they may otherwise have to cause any such action or proceeding to be brought or tried elsewhere.

d. Injunctive Relief.

(i) **Yardi Injunctive Relief.** The parties acknowledge and agree that, if Client breaches any of its obligations under sections 2(a) (Licenses), 2(b) (Restrictions), 9 (Confidentiality) or 15 (Assignment), Yardi might incur irreparable harm and damage that might not be fully compensated with monetary damages. Accordingly, if Client breaches any provision of sections 2(a) (Licenses), 2(b) (Restrictions), 9 (Confidentiality), or 15 (Assignment) Yardi may seek specific performance of Client's obligations under those sections and injunctive relief against any further violations of those sections.

(ii) **Client Injunctive Relief.** The parties acknowledge and agree that, if Yardi breaches any of its obligations under section 9 (Confidentiality) Client might incur irreparable harm and damage that might not be fully compensated with monetary damages. Accordingly, if Yardi breaches any provision of section 9 (Confidentiality) Client may seek specific performance of Yardi's obligations under that section and injunctive relief against any further violations of that section.

e. **Binding Effect.** This Agreement is binding on and inures to the benefit of the parties and their permitted assigns, successors, and legal representatives.

f. Notices.

(i) The parties shall deliver any notice required by this Agreement by personal delivery, certified U.S. Mail return receipt requested, or established, reputable expedited delivery carrier providing proof of delivery service, and will be deemed given upon confirmed delivery to the party to whom it is intended at its record address. The record addresses of the parties are set forth below.

(ii) If to Client:
Attn: Rhonda Hodge
OXNARD HOUSING AUTHORITY
435 S D St
Oxnard, CA 93030

Confidential

Preparation Date: February 20, 2025 9:47 AM

(iii) If to Yardi:
Attn: Legal Department
YARDI SYSTEMS, INC.
430 S. Fairview Ave.
Goleta, CA 93117

(iv) Either party may change its record address by giving written notice of such change to the other party.

g. **Waiver.** The waiver of a party's breach of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

h. **Severability.** If a court or other body of competent jurisdiction determines that any part of this Agreement is unenforceable, the remainder of this Agreement shall nevertheless remain enforceable.

i. **Headings.** This Agreement's section headings and captions are inserted for convenience only and are not intended to form a material part of this Agreement.

j. **Data Use.** Yardi may aggregate, compile, and use Client Data in order to improve, develop or enhance the Licensed Programs and/or other services offered, or to be offered, by Yardi; provided that no Client Data is identifiable as originating from, or can be traced back to, Client or a Client customer, tenant, or resident in such aggregated form.

k. **Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the agreement between the parties pertaining to this Agreement's subject matter and supercedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those inducements, representations and warranties expressly set forth in this Agreement.

l. **Non-Solicit/Non-Hire.** The parties agree not to solicit (other than a general solicitation to the public) the employment of, engage as an independent contractor, or hire, any employee of the other party while such person is an employee of the other party and until such person has not been an employee of the other party for 6 months.

m. **Modification.** The parties may only modify or amend this Agreement by a writing signed by both parties; provided, however, that Client may increase Client's licensed Designated User, property, unit, etc. count (as applicable) by delivering to Yardi a signed copy of Yardi's standard, approved form for such changes.

n. **Force Majeure.** Neither party shall be liable under this Agreement for failure or delay in performance caused by a Force Majeure Event. If a Force Majeure Event occurs, the party affected shall use commercially reasonable efforts to resume the performance excused by the Force Majeure Event.

o. **Right to Audit and Compliance.** In accordance with Yardi's obligations to credit bureaus, credit reporting agencies, and

including Yardi's obligation to help prevent and detect potentially fraudulent and/or suspicious activity, Client acknowledges and agrees that Yardi may conduct random as well as regular monitoring of users' access to and use of the Yardi Cloud and Licensed Programs as they relate to this Agreement in order to validate that users are accessing and using the Yardi Cloud and Licensed Programs for legitimate purposes and in accord this Agreement. Additionally, pursuant to any obligations Yardi has, or may have, under any laws or regulations concerning the prevention of identity theft, financial fraud, money laundering, terrorist financing, etc., Client agrees to comply with any standard Yardi 'know-your-client' requirements, processes, and/or procedures.

p. **[Reserved]**

q. **Signature; Counterparts.** This Agreement is not binding on the parties until both parties have signed it and have received a copy signed by the other party. However, both signatures need not appear on the same copy of this Agreement, so long as both signed copies have identical contents. The parties may transmit signatures on this Agreement by electronic transmission, which shall be binding upon the parties. Counterparts with original signatures shall be provided to the other party within 5 days of electronic transmission; however, the failure to provide the original counterpart shall have no effect on this Agreement's enforceability or binding nature. If executed in counterparts, this Agreement will be as effective as if simultaneously executed.

OXNARD HOUSING AUTHORITY ("Client")

By: _____
Date: _____
Print Name: _____
Title: _____

YARDI SYSTEMS, INC. ("Yardi")

By: _____
Date: _____
Print Name: _____
Title: _____

Rev. 071823

SCHEDULE A

Fee Schedule

Yardi Pin #: 100041668

Yardi Order #: 450096

Annual Fees						
Description	Unit of Measure (UOM)	Count	\$/UOM	\$/UOM Concession	Net \$/UOM	Annual Fee
Voyager SaaS Select PHA Property Management v1	Unit	2,345	\$20.00	(\$4.44)	\$15.56	\$36,488.20
Inspector General	Unit	2,345	\$2.00	(\$1.41)	\$0.59	\$1,383.55
RentCafe PHA Portal Package	Unit	2,345	\$24.00	(\$9.64)	\$14.36	\$33,674.20
Total						\$71,545.95

Monthly Fees			
Description	UOM	Count	Monthly Fee
Payment Processing v2	transaction	TBD	TBD
Total			TBD

One-Time Concessions	
Description	Concession
Total Strategic One-Time Concession	(\$12,768.00)

Total Fees Due	
Annual Fee	\$71,545.95
Monthly Fee	TBD billed monthly
One-Time Concession	(\$12,768.00)
Sub-Total	\$58,777.95
Sales Tax	as applicable
Total Due	\$58,777.95

Additional Terms

- PAYMENT TERMS (excluding applicable taxes):** 100% payable upon execution of this Agreement.
- Client may request future paperwork to increase/decrease the licensed Unit count by a minimum of 25 Units. Client may access Yardi Client Central to increase/decrease the licensed Unit count online without a minimum.
- Additional terms are set forth in the following schedules to this Agreement:
B – Yardi SaaS Select Subscription Services and Governance Schedule
C – Additional Terms
D – Data Processing
- Fees are subject to increase on each Anniversary Date; such increases shall not exceed the percentage increase outlined by the U.S. Department of Labor (per the Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W): U.S. City Average table) for the preceding year.

SCHEDULE B

Yardi SaaS Select Subscription Services and Governance Schedule

Data and File Management

Yardi will provide Voyager Licensed Program data and file management services per the following guidelines.

1. Voyager Licensed Program production database backup files will be maintained for 14 days on a server accessible by Client via secure transfer server from which Client may retrieve the Voyager Licensed Program database backups at any time; and.
2. Voyager Licensed Program production data will be replicated in near-real-time both locally within the Voyager Licensed Program production data center, as well as to a separate, Voyager Licensed Program off-site disaster recovery location.

Licensed Programs Support and Governance of Use

Yardi will provide consulting and technical support for the Voyager Licensed Program per the following guidelines.

1. Implementation, consulting and support of the Voyager Licensed Program and the Voyager Licensed Program deployed components, where applicable.

Annual Fees Include

Client's annual Fees include access to the Yardi Cloud, Voyager Licensed Program, Voyager Licensed Program updates/upgrades, and 2 application support hours per \$1,000.00 of Client's annual Fees. Yardi will debit all application support services (in ¼-hour increments with a ¼-hour minimum) against Client's above-noted Voyager Licensed Program application support allotment except when related to a Software Error. "Software Error" means a reproducible failure of the Voyager Licensed Program to materially perform as specified in the Voyager Licensed Program Documentation. Client acknowledges that data preparation and post conversion data clean-up is inherent in any data conversion, and such additional efforts associated with a Client data conversion – if performed by Yardi – will be debited against Client's application support service allotment. Notwithstanding the multi-year Term set forth in the Agreement, Client's annual Fees and included annual application support allotment apply for annual periods ending on each Anniversary Date, and shall not include unused application support time from prior annual periods. If Client needs additional application support hours at any time, Client may purchase additional hours at Yardi's then-current prevailing application support rate at the time Client needs the hours.

SCHEDULE C

Additional Terms

Product Terms:

1. **Payment Processing v2:** Client has read, understood, and agrees to be bound by the additional payment processing terms and conditions set forth at https://clientcentral.yardi.com/core_custompage/Payment-Processing-PP2-PayFac and incorporated into this Agreement by this reference, as they may be amended from time to time (the "**Payment Processing Terms**"). Client agrees that such Payment Processing Terms shall govern Client's use of Yardi's Payment Services, CHECKscan, and Walk-In Rent Collection/Rent Payment Services. Client's specific pricing, below, shall take precedence over that pricing outlined in the Payment Processing Terms, so long as this section remains in effect. Client shall implement Payment Processing v2 for **2,345** Units.
 - a. **Definitions.**
 - (1) "**ACH**" means a nationwide funds transfer network that enables participating financial institutions to electronically credit, debit and settle entries to bank accounts.
 - (2) "**Chargeback**" means a Transaction that is disputed at the request of either the User or by the User's card issuer. A Chargeback will cause the amount of the original sale and a Chargeback fee to be deducted from the Client's bank account.
 - (3) "**Check 21**" means the Check Clearing for the 21st Century (Check 21) Act and all regulations pertaining to the Check 21 Act.
 - (4) "**CHECKscan**" means the process by which paper checks are scanned and converted into an electronic form for payment and automatically recorded within the software.
 - (5) "**Check Bill-Pay Payments**" means a payment made by the Check 21 payment services provided by Yardi and (if applicable) JHA MC pursuant to these Payment Processing Terms.
 - (6) "**Payment Services**" means Yardi's online payment and payment processing services with respect to Bill-Pay Payments and User charges made using Payment Network-branded payment methods and ACH methods.
 - (7) "**Retrieval Fee**" means a request made by a User for a sales draft or supporting documentation in order to substantiate a Transaction.
 - (8) "**Third Party Payment Services (TPPS)**" means any non-Yardi online payment services designated by Yardi as supported by Yardi with respect to Bill-Pay Payments and User changes made using Payment Network branded payment methods and ACH methods.
 - (9) "**Transaction**" means a debit or credit submitted for processing by a User, including but not limited to prospective tenant application fees, tenant rent payments, other document fees, applicable service fees, and resubmission of rejected items, but not including a Bill-Pay Payment.
 - (10) "**Users**" means tenants and prospective tenants managed by Client, who make a Transaction as defined above. With respect to CONDOCAFÉ Certificates only, Users shall mean tenants and prospective tenants managed by Client, and other third parties including but not limited to real estate brokers and attorneys who make a Transaction as defined above.
 - (11) "**Yardi Bill-Pay Payment**" and "**Bill-Pay Payment**" means the ACH or physical check payment made through Payment Processing v2.
 - b. **Fees.** In the event Client upgrades from Payment Processing Transactions to Payment Processing v2, Yardi shall continue to charge Client for Transactions at prior rates for 3 months from the effective date of the upgrading document to allow for a period of implementation.
 - (1) **Client-Paid Transactions:** Client acknowledges and agrees to pay the following Fees for each of the following Transactions or Bill-Pay Payment type (which apply per Transaction or Bill-Pay Payment):
Payment Processing (for accounts receivable):
 - a) **CHECKscan: \$0.50**
 - b) **ACH: \$0.95**
 - c) **Signature Debit Cards:** see online terms provided in the hyperlink above
 - d) **Credit Cards:** see online terms provided in the hyperlink above
 - e) **Monthly transaction minimum:** If Client fails to meet the monthly transaction minimum outlined in Schedule A (Fee Schedule), if applicable, Yardi shall charge Client for the remaining Transactions (i.e., the Transactions required to satisfy the aforementioned monthly minimum) at the CHECKscan rate outlined above. Client will be invoiced for actual Transactions processed for 9 months commencing on the effective date of the document in which Payment Processing v2 was initially licensed. Thereafter, Client will be invoiced the monthly minimum or actual usage, whichever is greater.
Yardi Bill-Pay (for accounts payable):
 - a) **ACH and Check Writing via Check Bill-Pay Payments: \$1.00**
TPPS (for accounts receivable):
 - a) **TPPS Change of Service: \$950.00** per addition/change to a third party payment processor
 - b) **TPPS CHECKscan:** see Payment Processing (for accounts receivables) above
 - c) **TPPS ACH:** see Payment Processing (for accounts receivables) above
TPPS (for accounts payable):
 2. **TPPS Change of Service: \$950.00** per addition/change to a third party payment processor
 3. **TPPS ACH and Check Writing via Check Bill-Pay Payments:** see Yardi Bill-Pay (for accounts payable) above
 - (2) **Tenant-Paid Transactions.** (i) Client desires that Yardi assess each User directly any Fees applicable to each User-initiated Transaction. (ii) Notwithstanding any other term to the contrary, for all Transactions that are desig-

nated by Client as the responsibility of User, any fees or charges imposed by a processing institution, correspondent bank, merchant bank or other institution other than the original Transaction Fee (such as Chargebacks and Retrieval Fees) shall at all times be the sole responsibility of Client and not User, which Client acknowledges and agrees to pay.

- (3) The Fees set forth above may be amended by Yardi in its reasonable sole discretion. Yardi will, upon Client's written request, provide Client with the then-current schedule of Fees.

4. **RentCafe PHA Portal Package** includes the following:
- RentCafe PHA Online Applications, RentCafe PHA Applicant and Resident Portals, RentCafe PHA Online Certifications, RentCafe PHA Landlord Portal, and the RentCafe Affordable Portal Package.
 - Leading practice Workflows and Forms (which are not subject to customizations). Any changes to the Workflows require further scoping between Yardi and Client and a Custom Programming Request.

Allotted DUs included:

- Agreement includes unlimited residential DUs

Concession Details:

- Recurring concessions outlined in Schedule A (Fee Schedule) are contingent upon Client maintaining the initial licensing and associated Fee indicated for the corresponding product. If Client reduces licensing which decreases a product's Fee by more than 10%, the product's concession shall be reduced in correlation to the Fee reduction. For example, if Client reduces a product's Fee by 50%, the annual concession for that product shall be reduced by 50%.

Other Terms:

- Yardi licenses/services are sold separately unless otherwise stated.
- Client acknowledges that additional licenses/services [i.e., in addition to those initially set forth in Schedule A (Fee Schedule)] require additional Fees at Client's then-current, cumulative, CPI-increased base rate (which base rate shall be annually CPI-increased upon invoicing approximately 60 days prior to each Anniversary Date) for the additional licenses/services at the time of Client's request. Subject to: (i) at least 5 business days' prior written notice from Client; (ii) Client's execution of an amendment to the Agreement; and (iii) payment of additional Fees, Yardi will increase Client's licensed maximum number of licenses.
- Yardi reserves the right to audit Client's database at any time solely to confirm the scope of Client's use of the Licensed Programs relative to Client's contractual license.
- In accord with Schedule A (Fee Schedule), Client may add additional licenses/services at any time, and any associated Annual Fee increases shall be prorated from the period the addition is made through the end of Client's then-current billing cycle. Client may also remove licenses/services upon the first day of each billing period (i.e., reduce Client's Annual Fee by such removals) through the execution of future addenda or online orders placed through Yardi Client Central.
- RentBureau Data Release and FPN Resident-Link Services:** If you choose to release data to RentBureau, a division of Experian Data Corp. (RentBureau), and if you choose to offer your tenants subscription-based identity theft protection services through Resident-Link powered by Fraud Protection Network® (FPN Resident-Link), additional terms apply, are incorporated into the Agreement, and are posted at [RENTBUREAU AND RESIDENT-LINK TERMS OF USE AND DATA RELEASE](#) (the [DR-TOU](#)). Note that you can release data to RentBureau without implementing FPN Resident-Link Services, but if you decide to offer FPN Resident-Link Services to your tenants, you must release data to RentBureau.
- Client acknowledges and agrees that ETL for 1 foreign database is included with the core system, and it is to be used solely for the purpose of onboarding property data into the Client's database and with any other Yardi product for which ETL is recommended for use by Yardi to enhance product function. The foreign database included is not to be used as an interfacing tool with external systems except when ETL services are purchased separately.
- Client agrees to license Inspector General for all Voyager Units.

SCHEDULE D

DATA PROCESSING

CLIENT HAS READ, UNDERSTOOD, AND AGREES TO BE BOUND BY THE ADDITIONAL TERMS AND CONDITIONS IN THE LATEST VERSION OF THE DATA PROCESSING ADDENDUM (DPA) POSTED AT [HTTPS://RESOURCES.YARDI.COM/LEGAL/DATA-PROCESSING-ADDENDUM/](https://resources.yardi.com/legal/data-processing-addendum/) (WHICH WILL BE UPDATED FROM TIME TO TIME AND IS INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE), AND ALLOWS CLIENT TO USE YARDI'S PRIVACY AND DATA COMPLIANCE TOOLS.



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. K.6

DATE: March 4, 2025

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Federal and State Asset Forfeiture Funds

RECOMMENDATION

That the City Council approve a budget appropriation in the amount of \$162,000 for the use of Federal (Fund 191 - \$95,000) and State (Fund 192 - \$67,000) Asset Forfeiture Funds allocated to the City of Oxnard's Police Department.

(This item did not originate in Committee.)

BACKGROUND

As established under various state and federal statutes, asset forfeiture is intended to disrupt criminal activities through the seizure and forfeiture of the instruments or proceeds of crime. Forfeited funds are then used to help protect and serve our communities and support law enforcement.

Asset Forfeiture Fund ("AFF") allotments for Oxnard are primarily generated through the Police Department's Drug Enforcement Unit ("DEU"), which participates in a multi-agency task force that includes the Federal Bureau of Investigation ("FBI"). These seizures involved cash that was connected to illicit narcotics activity and/or money laundering.

Overview of the Asset Forfeiture Process

The asset forfeiture process generally involves three steps:

1. Seizure: Law enforcement agencies are authorized to conduct seizures for certain types of criminal offenses and under specified circumstances. For example, law enforcement officers must generally have probable cause to believe that an eligible crime has occurred before assets may be seized.
2. Adjudication: Federal and state asset forfeiture proceedings are initiated to determine whether assets were seized appropriately and can be kept by the government. Cases pursued federally are typically those that either (1) arise from joint investigations in which federal law enforcement participates or (2) meet federal requirements allowing a state or local case (upon request of the state/local entity) to be "adopted" as a federal case. All other cases are pursued at the state level.
3. Distribution of funds: Asset forfeiture proceeds are generally required to be distributed in particular ways and used for particular purposes. Examples of allowable uses include supplementing existing law enforcement equipment and training.

California places the burden of proof on the government to show why property should be forfeited. Property owners can challenge the forfeiture in court. It is those funds that have been through the adjudication and challenge phase that become eligible for distribution.

Uses of Asset Forfeiture Funds

AFF appropriations are used for various unbudgeted training and equipment purchases. AFF funds must be used by law enforcement agencies for law enforcement purposes only, and cannot replace or supplant existing budget or resources. The Police Department intends to fund the following categories of purchases:

- Hardware/equipment: Replacement of electronic citation printers, light detection and ranging (LIDAR) devices for traffic enforcement
- Field and tactical equipment: Replacement of rifle optics, rifle tripods
- Crowd and traffic management equipment: Barricades
- Training, conferences, and seminars: Such as for investigations related to narcotics, homicide, and sexual assaults, or related to professional development
- Peer support training, and furthering employee wellness initiatives

Asset Forfeiture Funded Community Grants

The Police Department also uses AFF to support community initiatives by providing mini-grants. California Health & Safety Code section 11489(a)(2)(A)(i) mandates that 15% of state asset seizure funds "be used for the sole purpose of funding programs designed to combat drug abuse and gang activity...for high-risk elementary and secondary school students." The designated portion of these seizure funds will be used to work closely with local community-based organizations to accomplish these goals. The Police Department conducts a competitive application process, and awards mini-grants upon this recommendation's approval.

Last year, the Police Department awarded a total of \$18,500, in sums ranging between \$1,000 and \$2,000 to the following community-based organizations:

- Building Blocks for Kids
- Teatro De Las Americas, Inc
- DRAGG Inc.
- Together We Inspire Neighborhood Superstars
- Oxnard County Soccer League
- Parents of Murdered Children
- Casa De Vida Inc.
- Oxnard Performing Arts Center Corporation
- Dove Christian Ministries
- Oxnard Bible Church
- Hope and Comfort Inc.
- Sunset Little League
- Health Care Foundation for Ventura County, Inc.

Asset Forfeiture Funding for materials qualifying as "Military Equipment"

Of note, Government Code sections 7070-7075 (also more commonly known as Assembly Bill 481) require law enforcement agencies to obtain approval from the agency's governing body before purchasing, raising funds for, or acquiring what the legislature defines as "military equipment," by any means, including requesting surplus military equipment from the federal government. In any event that the Police Department should seek to use AFF to purchase equipment that is defined by this statute as military equipment, it will be brought to the City Council for approval in a separate agenda item at future meetings.

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

Of the \$162,000 appropriation requested, \$95,000 will be appropriated to the Federal Asset Seizure Fund 191 (Project #M2005) for training and equipment purchases, and \$67,000 will be appropriated to the State Asset Seizure Fund 192 (Project #M2005) for equipment purchases and the community based-grant awards. There is sufficient fund balance available in both funds to cover this request. Approval of this recommendation will have no impact on the General Fund.

For Finance Use Only: Asset Seizure-Federal Fund (Org. 1912131 Obj. 52310, 52400 and 53200) Asset Seizure-State Fund (Org. 1922131 Obj. 52400 & 53200) Project M2005.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.7

DATE: March 4, 2025
TO: City Council
FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org
SUBJECT: Public Project Agreement 32500418 with R.E. Schultz Construction, Inc. for Citywide Playground Replacement Project – Del Sol Park, Specification No. PW 25-16.

RECOMMENDATION

That the City Council approve and authorize:

1. A total of \$262,248.00 in Project funds for the Citywide Playground Replacement Project – Del Sol Park, Specification No. PW 25-16;
2. The Mayor to Execute an Agreement with R.E. Schultz Construction, Inc. in the amount of \$218,540.00 and a Project contingency amount of \$21,854.00 (10%) with R.E. Schultz Construction, Inc. for a total not to exceed value of \$240,394.00 for the Project; and
3. A Project allocation amount of \$21,854 (10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

BACKGROUND

The existing playground equipment at Del Sol Park has reached the end of its useful life and is in need of replacement. The new playground equipment and surface will help enhance the amenities at the park and the enjoyment of children using the playground equipment.

The specific work for this Project includes furnishing all necessary labor, materials, equipment and other incidental and appurtenant work to remove and dispose of existing playground equipment and replace it with a new playground system featuring rubber surfacing and engineered wood fiber safety material. The new playground is designed for ADA compliance and includes the following inclusive features: ground-level activity panels, elevated activity panels, a music activity station, a four-person rocker, and inclusive swings.

The work is tentatively scheduled to begin in early calendar year 2025 and be completed within 90 Working Days absent any delays due to supply chain issues, unforeseen site conditions, or inclement weather.

Staff will work closely with the La Colonia Neighborhood Council to keep them informed of the schedule and will also work closely with the businesses and residents directly impacted by the work to keep them informed of the project schedule. General project information will be disseminated to help keep the public informed as well.

Capital Improvement Program (CIP) Reference:

Project No. **C2220** – Playground Replacement - CIP 2025-2029 - Adopted June 4, 2024 – Page 81.

DISCUSSION

The Notice Inviting Formal Bids (NIFB) for the Project was published on December 19, 2024, in the local newspaper (Vida). Additionally, the NIFB was posted on multiple online platforms including the City's website, and distributed directly to 31 contractors who have registered with the City to be notified of Public Project bids within their license classification as well as 4 contractors who have bid on similar projects in the past. All bids were due and opened on January 15, 2025. The City received the following bids:

R.E. Schultz Construction, Inc.:	\$218,540.00
Matthew Norris dba Central Coast Playgrounds:	\$232,000.00
Pacific Tide Construction:	\$270,523.76

The lowest bidder is R.E. Schultz Construction, Inc. and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from R.E. Schultz Construction, Inc. and its subcontractor. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to R.E. Schultz Construction, Inc.

In addition to the project award amount of \$218,540, Staff recommends authorizing \$43,708 for the project, which includes \$21,854 for project contingency (10% of the contract costs) and \$21,854 for the cost for engineering services and City staff (10% of the contract cost). Engineering services include the following activities during construction: engineering, inspection, survey and project management. These recommendations bring the total estimated cost of the project to \$262,248.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The total cost for this Project is \$262,248.00 which includes the construction agreement, contingency and project allocation. The Playground Replacement Project (C2220), which includes Del Sol Park, is funded by the 2018 Parks and Water Bond Act (Proposition 68) General Per Capita Program under Contract No. C98011743 administered by the State of California Natural Resources Agency, Department of Parks & Recreation, and the General Fund as a matching funding source and has an available current project budget of \$384,768 in FY 2024-25.

Citywide Playground Replacement Project (C2220)	FY 2024-25 Project Budget Balance
Per Capita Grant Program (210)	\$171,110
General Fund (101)	\$213,658
TOTAL	\$384,768

The ongoing maintenance cost for the Del Sol Park playground will have no new impact on the Parks Division's Operating budget, in comparison to the annual operating cost for the existing park playground.

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Morgan Kessler, City Engineer

ATTACHMENTS

1. R.E. Schultz Const Agreement PW 25-16
2. Playground Replacement Budget Tracking Sheet

**CONSTRUCTION CONTRACT FOR
CITYWIDE PLAYGROUND REPLACEMENT PROJECT - DEL SOL PARK
SPECIFICATION NO. PW 25-16**

**BY AND BETWEEN
THE CITY OF OXNARD
AND R.E. SCHULTZ CONSTRUCTION, INC.**

THIS CONSTRUCTION CONTRACT (the "Contract") is made and entered this _____ day of _____, 2025 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and R.E. SCHULTZ CONSTRUCTION, INC. ("Contractor"). Contractor's license number is 1007195. The City and Contractor are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

WHEREAS, the City requires construction of the CITYWIDE PLAYGROUND REPLACEMENT PROJECT - DEL SOL PARK as more fully described in the bid package issued by the City for SPECIFICATION NO. PW 25-16 (the "Project"); and

WHEREAS, on December 19, 2024, the City issued a Notice Inviting Bids and Contract Documents to prospective bidders for the Project. In response, Contractor submitted a Bid which the City determined to be the lowest responsive and responsible bid; and

WHEREAS, Contractor is a duly organized corporation in good standing in the State of California, and represents that it has the background, knowledge, experience, expertise and resources to perform the Work and other obligations encompassed by this Contract; and

WHEREAS, at its meeting held on _____, the Oxnard City Council duly accepted Contractor's Bid Proposal for the Project and directed that a written agreement for the Project be entered into with Contractor; and

WHEREAS, in light of the facts set forth above and the certifications made by Contractor as part of its Bid, the City desires to retain Contractor to perform the construction Work for the Project as set forth in this Contract and in the Contract Documents, as hereinafter described.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Contract by this reference, as though set forth herein.

2. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

- A. Contract Documents. The Contract Documents consist of the following documents, all of which are either attached hereto as exhibits or are incorporated herein by this reference.

Said Contract Documents are complementary; what is called for in one is binding as if called for in all, and together constitutes Contractor's performance obligations:

1. Contract and its attached Exhibits, subject to the limitations in Sections 10 ("Prevailing Wage") and 24 ("Ambiguities") with respect to Exhibit "A" (Contractor's submitted Bid Proposal as accepted by the City);
2. Change Orders issued and approved by the City;
3. Bid Addenda issued by the City;
4. Notice Inviting Bids and Instructions to Bidders;
5. Special Provisions
6. General Provisions
7. Appendices
8. Bid Forms and attachment thereto;
9. Performance Bond;
10. Payment Bond.

3. CONTRACTOR'S OBLIGATIONS

- A. Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents, and to the satisfaction of the Public Works Director or his/her designee (hereinafter the "Project Manager").
- B. Until the acceptance of the Work, the Contractor shall have the responsible charge and care of the Work and of the materials to be used therein, (including materials for which partial payment has been received or materials which have been furnished by the Owner), and shall bear the risk of injury, loss or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the Work.
- C. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance, and shall bear the expense thereof. Where necessary to protect the Work or materials from damage, the Contractor shall, at the Contractor's expense, provide suitable drainage and erect such temporary structures as are necessary to protect the Work or materials from damage.
- D. The suspension of the Work from any cause whatever shall not relieve the Contractor of his responsibility for the Work and materials as herein specified. If ordered by the Owner's Representative, the Contractor shall, at the Contractor's sole cost and expense, properly store materials which have been partially paid for by the Owner or which have been furnished by the Owner. Such storage by the Contractor shall be on behalf of the Owner, and the Owner shall, at all times, be entitled to the possession of such materials, and the Contractor shall promptly return the same to the site for the work when requested. The Contractor shall not dispose of any of the materials so stored, except with written authorization from the Owner.

- E. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, is authorized to act at the Contractor's discretion to prevent such threatened loss or injury, and shall so act as though instructed to do so by the Owner.
- F. Notwithstanding the foregoing provisions of this article, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of five (5) percent of the contracted amount, provided the work is built in accordance with accepted and applicable building standards and the approved Plans and Specifications.
 - 1. "Acts of God" shall include earthquakes in excess of a magnitude of 3.5 on the Richter Scale, wildfires and tidal waves.

4. LICENSES REQUIRED

- A. The Contractor shall possess a valid California Class A General Engineering Contractor's license issued by California State Contractors License Board.
- B. If traffic control in a construction zone is required, it must be performed by a State of California Construction Zone Traffic Control Contractor, Specialty License Classification C-31.
- C. In accordance with Section 7028.15 of the Business and Professions Code, all Contractors shall be licensed in accordance with the laws of the State of California and any Contractor or Subcontractor not so licensed is subject to the penalties imposed by such laws.
- D. The Contractor will also be required to possess a City of Oxnard business license at the time of Contract award.

5. CONTRACT PRICE; PAYMENT AND RETENTION

- A. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor TWO HUNDRED AND EIGHTEEN THOUSAND, FIVE HUNDRED AND FORTY DOLLARS, (\$218,540.00) (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal (attached hereto as Exhibit "A") subject to the provisions of this Contract and the Contract Documents.
- B. Procedures relating to payment and retention are set forth in the Special Provisions.

6. CONTRACT TIME; NOTICE TO PROCEED; TERM

- A. Contract Time. The Work under this Agreement shall be diligently prosecuted to completion before expiration of ninety (90) Working Days, after the issuance of the Notice to Proceed. The City will not issue a Notice to Proceed to the Contractor until this Contract, including payment and performance bonds, insurance documents, business tax certificate have been executed and/or approved by the City.
- B. Notice to Proceed. No work, service, material, or equipment shall be performed or

furnished under this Contract unless and until a Notice to Proceed has been given to the Contractor by the City. Contractor shall commence Work pursuant to the Contract Documents and as directed by the City in the Notice to Proceed, and diligently execute the same to completion within the Contract Time. Any Work that is done by the Contractor in advance of such time shall be considered as being done at the Contractor's own risk and responsibility, and as a consequence will be subject to rejection.

- C. Term. The Contract is effective as of the Effective Date listed, and shall remain in full force and effect until the Contractor has completed all Work pursuant to the Contract Documents, the City has accepted all Work, and the Contract Term has ended, unless the Contract has been otherwise terminated by the City.

7. DISPUTE RESOLUTION AND CLAIMS PROCEDURES

- A. Public Contract Code Section 9204. For purposes of any Public Works Claims filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204) under this Contract, the claims procedures in Public Contract Code Section 9204 ("Section 9204") and the provisions of this Section shall apply.
 - 1. In the event of a Section 9204 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 9204 process.
 - 2. Any Public Works Claims not resolved by the Section 9204 procedures (and/or any tort claims) shall be subject to the provisions of the Government Claims Act (Government Code section 810 et seq.).
- B. Public Contract Code Section 20104 et al. For purposes of any Public Works Claims of three hundred and seventy-five thousand dollars (\$375,000) or less filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204), the claims procedures in Public Contract Code Section 20104.2 and the provisions of this Section shall apply.
 - 1. In the event of a Section 20104 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 20104.2 process.
 - 2. Any Public Works Claims not resolved by the Section 20104.2 procedures (and/or any tort claims) shall be subject to the provisions of Section 20104.4 and the Government Claims Act (Government Code section 810 et seq.).
- C. For disputes or claims that do not constitute Public Works Claims, City and Contractor agree to comply with the following process:
 - 1. Each Party shall designate a senior management or executive level representative to negotiate any dispute.
 - 2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 3. If the issue remains unresolved after ten (10) days of good faith negotiations, the

Parties shall attempt to resolve the disagreement by negotiation between the legal counsel for each Party. If the above process fails, the Parties may mutually agree to engage in non-binding mediation or arbitration in which the Parties equally share the costs of any mediator or arbitrator, or may proceed with suit or other remedies, subject to the provisions of subparagraph (5) of this Subsection and other applicable provisions and laws.

4. The alternative dispute resolution process set forth herein is a material condition to Contract and must be exhausted as an administrative remedy prior to either Party initiating legal action.
5. The provisions of the Government Claims Act (Government Code section 810 et seq.) are also required prior to initiating suit against the City.

8. TERMINATION OF AGREEMENT FOR CONVENIENCE

- A. The City may, by providing thirty (30) days' advance written notice to Contractor, terminate this Agreement in whole or in part, whenever the City shall determine that such termination is in the best interests of the City, or when it becomes impracticable or impossible to proceed, or because of conditions or events beyond the control of the City. Any such termination shall be effected by delivery to Contractor of a Notice of Termination for Convenience, specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. Upon such termination, the obligations of the Contractor for portions of the Work already performed shall continue.
- B. Upon receipt of a Notice of Termination for Convenience, the Contractor shall, unless the notice directs otherwise, do the following:
 1. Immediately discontinue the Work to the extent specified in the notice.
 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion(s) of the Work that are not to be discontinued.
 3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the Work.
 4. Thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.
- C. Upon such termination, the Contractor will be paid without duplication for:
 1. Work completed in accordance with the Contract Documents prior to the effective date of the Notice of Termination for Convenience;
 2. Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
 3. Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the City no later than ninety (90) days from the effective date of termination, unless extended in writing by the City, upon written request by the Contractor. If the Contractor fails to submit a proposal, the City may determine the amount, if any, due the Contractor as a result of the termination. The City will pay the Contractor the amount it determines is reasonable. If the Contractor disagrees with the

amount determined by the City as being reasonable, the Contractor shall provide notice to the City within thirty (30) Days of receipt of payment. Any amount due shall be subject to the dispute resolution provisions set forth in the Contract Documents.

- D. Contractor shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section 7.

9. TERMINATION FOR CONTRACTOR'S DEFAULT

- A. Default. The City may terminate this Contract for Contractor's default as set forth in this Section. The City will consider the Contractor in default of this Contract if, prior to the City's acceptance of the Work, the Contractor:
 1. becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work;
 2. abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
 3. disregards written instructions from the City or materially violates provisions of the Contract Documents;
 4. fails to prosecute the Work according to the schedule approved by the Engineer,
 5. disregards laws or regulations of any public body having jurisdiction, or
 6. commits continuous or repeated violations of regulatory or statutory safety requirements.

Notices, and other written communications regarding default between the Contractor, the City, and the Surety shall be transmitted in accordance with Section 25 ("NOTICES") of this Contract.

- B. Notice and Opportunity to Cure. The City will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within five (5) Working Days after receipt. If the Contractor fails to commence satisfactory corrective action within five (5) Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will consider the Contractor in default of the Contract and:
 1. will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
 2. may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and
 3. may furnish labor, equipment, and materials the City deems necessary to secure and maintain the Job Site;
- C. Remedies Cumulative. The provisions of this Section shall be in addition to all other legal rights and remedies available to the City. Termination of this Contract will not relieve the Surety of its obligation for any just claims arising out of the Work performed.

10. PREVAILING WAGE

- A. Compliance with State Prevailing Wage Requirements. Pursuant to Labor Code Section 1773, the City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in Ventura County, California from the Director of the Department of Industrial Relations (DIR) for each craft, classification, or type of worker needed to perform the Work required under this Contract. A copy of these prevailing wage rates are on file at the City's Finance Department/Purchasing Division and shall be made available for review to any interested party on request. In addition, a copy of the prevailing rate of per diem wages may be obtained via the internet at: <http://www.dir.ca.gov/DLSR/PWD>. Contractor and all Subcontractors shall pay not less than said specified State of California rates to all workers employed by them in the execution of the Work contemplated by this Contract, including workers performing Work covered by under Labor Code Sections 1720 and 1720.9. Contractor shall be responsible for using the correct and current prevailing wage rates. Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct prevailing wage.

- B. Conflict. It is further expressly agreed by and between the Parties hereto that should there be any conflict between the terms of this Section 10 and the provisions of Exhibit "A", the terms of this Section 10 shall control and nothing herein shall be considered as an acceptance of the terms of Contractor's Submitted Bid Proposal conflicting with the requirements of this Section 10.

- C. Payroll Records. Contractor must comply with the provisions of Labor Code sections 1776 and 1812 and all implementing regulations, including without limitation, those set forth in Title 8 of the California Code of Regulations, Section 16000 et seq. (hereinafter the "Regulations"), which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.
 1. Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct; and
 - b. Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

 2. Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

3. Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.
- D. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated by reference.
- E. Notices. Pursuant to Labor Code section 1771.4, Contractor is required to post all Job Site notices, including prevailing wage rates and other notices as required by regulation.
- F. Other Labor Requirements. Contractor has the responsibility for and shall comply with all other requirements of California Labor Code Section 1720 et seq., the Regulations, and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.
- G. Statutory Penalties. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced as follows:
 1. Pursuant to Labor Code section 1775, the Contractor and any Subcontractor under it shall forfeit as a penalty to the City not more than two hundred dollars (\$200.00), for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the DIR for such work or craft in which such worker is employed for any public work done under this Contract by it or by any Subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
 2. The Contractor or Subcontractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Contract by the respective contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of this Subsection. In awarding any contract for public work, Contractor must forfeit to City twenty-five dollars (\$25.00) per day for each worker who works in excess of the minimum working hours when Contractor does not pay overtime. In accordance with the provisions of Labor Code Sections 1810 et seq., eight (8) hours is the legal working day.
- H. DIR Monitoring. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.
- I. DIR Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its Subcontractors must be registered with the DIR prior to the execution of a contract to

perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all Subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

11. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of two hundred fifty (\$250) per day for each Calendar Day of unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

12. COMPLIANCE WITH LAWS

Contractor shall comply with all Laws applicable to the performance of the Work required by the Contract Documents, including any rule, regulation, or bylaw governing the conduct or performance of Contractor, its employees, officers, board members, agents, independent contractors, and Subcontractors. Unless otherwise specified in the Contract Documents, all required permits and licenses, including a City business license, shall be held or obtained by the Contractor at its sole expense and prior to commencing any Work hereunder.

13. WORKERS' COMPENSATION CERTIFICATION

Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

14. INSURANCE

Contractor shall procure and maintain at its own expense at all times during the period covered by this Contract (and through the one-year guarantee period following the date of City's acceptance of the Project) the following policies of insurance as approved by the City's Risk Manager as set forth in INS-D attached as Exhibit B to this Contract.

15. STATE GRANT CONTRACT PROVISIONS: PER CAPITA PROGRAM MASTER AGREEMENT.

Contractor acknowledges that the Project is being funded in part with funds from "Per Capita Grant Contract C9801743" pursuant to the 2018 Parks and Water Bond Act (Proposition 68) General Per Capita Program and that certain Contract No. C9801743 between the City and State of California, acting through the Natural Resources Agency, Department of Parks and Recreation, as amended if required (herein referenced as "Master Agreement"). Said Master Agreement was included in Section D of the Bid Package for the Project and is attached to this Contract as "Exhibit F" and incorporated by reference as if fully set forth herein. Contractor and subcontractors have read and agree to comply with the provisions of said Master Agreement, all of which are incorporated into this Contract by reference as if set forth fully herein.

16. TIME OF THE ESSENCE

Time is of the essence in the performance of this Contract.

17. INDEMNIFICATION

- A. Notwithstanding the limits of any insurance and to the fullest extent permitted by law, Contractor shall indemnify the City, its elected or appointed officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (hereinafter "Claims or Liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the Work, operations, or activities of Contractor, its agents, employees, Subcontractors, or invitees on the Project, or arising or alleged to arise from the acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Contract, but excluding such Claims or Liabilities or portion of such Claims or Liabilities arising or alleged to arise from the active negligence, sole negligence, or willful misconduct of the City, its elected or appointed officials, officers, agents, volunteers, or employees, and in connection therewith:
1. Contractor will defend any action or actions filed in connection with any of said Claims or Liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
 2. Contractor will promptly pay any judgment rendered against the City, its elected or appointed officials, officers, agents, volunteers, or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', Subcontractors' or invitees') performance of or failure to perform such Work, operations or activities hereunder; and Contractor agrees to save and hold the City, its elected or appointed officials, officers, agents, volunteers and employees harmless therefrom;
 3. In the event the City, its elected or appointed officials, officers, agents, volunteers, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the Work, operation, or activities of Contractor hereunder, Contractor shall pay to the City, its elected or appointed officials, officers, agents, volunteers, or employees, any and all costs and expenses incurred by the City, its elected or appointed officers, officials, agents, volunteers, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City;
 4. Contractor's duty to defend, indemnify, and hold harmless as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of, or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to, the Federal Insecticide, Fungicide and

Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the PorterCologne Water Quality Control Act, as any of those statutes may be amended from time to time.

- B. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. The Contractor's indemnification and defense obligations pursuant to this Section shall survive the termination of this Contract. Contractor shall require the same indemnification from all Subcontractors.

19. THIRD PARTY CLAIMS

The City shall have full authority to compromise or otherwise settle any claim relating to the Project at any time. The City shall timely notify the Contractor of the receipt of any third-party claim relating to the Project. The City shall be entitled to recover its reasonable costs incurred in providing this notice.

The Contractor shall not have any authority to compromise or otherwise settle any claim relating to the Project; any effort by the Contractor to do so shall be deemed a breach of the Contract, and the City will not participate in any such compromise or settlement. Within five (5) Calendar Days of the date that the Contractor receives any third-party claim relating to this Project, the Contractor shall provide written notice thereof and a copy of the claim to the City Attorney.

20. CONFLICTS OF INTEREST

The Contractor shall not accept any employment or representation during the Contract Term or within twelve (12) months thereafter that is or may likely make the Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by the City on any matter in connection with which the Contractor has been retained pursuant to the Contract Documents."

REPORTS; BOOKS AND RECORDS; AUDIT

- A. Upon request by the Project Manager, Contractor shall prepare and submit reports concerning Contractor's performance of the Work required by this Contract.
- B. Contractor shall keep such books and records as shall be necessary to perform the work required by this Contract and enable the Project Manager to evaluate the cost and the performance of such Work.
- C. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles, and Contractor and its subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred Project costs and matching funds by line item for the Project. The Project Manager and the parties specified in the Master Agreement referenced in Section 15 of this Contract and attached hereto as Exhibit F, shall have full and free access to such books and records at all

reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

- D. Records and supporting documents pertaining to the use of funds paid to Contractor hereunder shall be retained by Contractor and made available to the Project Manager for purposes of performing an audit for a period of five (5) years from the termination of this Contract.

21. NONDISCRIMINATORY EMPLOYMENT

- A. The Contractor shall not unlawfully discriminate against any individual based on race, religion or religious creed, color, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, immigration status, citizenship or military and veteran status. The Contractor shall comply with the nondiscrimination mandates of all statutes, ordinances and regulations.
- B. For every Subcontractor who will perform Work on the Project, the Contractor shall be responsible for such Subcontractor's compliance with this Section. The Contractor shall include in the written contract between itself and each Subcontractor a copy of the provisions in this Section and a requirement that each Subcontractor shall comply with those provisions. The Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure Subcontractor's compliance. The Contractor shall diligently take corrective action to halt or rectify any failure to comply.

22. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended only by written Change Orders as specified in the Contract Documents or a written instrument signed by both Parties.

23. ENTIRE AGREEMENT

- A. This Contract supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Contract.
- B. The Contract Documents contain all of the covenants and agreements between the Parties with respect to the subject matter herein, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Contract and the Contract Documents incorporated herein.
- C. No agreement, statement, or promise with respect to the subject matter of the Contract Documents, which is not contained in the Contract Documents, or in a valid modification or amendment to the Contract Documents, shall be valid or binding on either Party.

24. AMBIGUITIES

This Contract is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall

govern the interpretation of any uncertainty or ambiguity of this Contract. Notwithstanding the foregoing, the Parties agree that Exhibit "A" is attached hereto for reference purposes, and to the extent there are any ambiguities, inconsistencies, or conflicts between the terms of this Contract and Exhibit "A", the terms of this Contract shall control and nothing set forth in Exhibit "A" shall be deemed to supersede any of the provisions of this Contract.

25. NOTICES

- A. Any notice to be provided pursuant to this Contract shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

TO CITY: CITY OF OXNARD, PUBLIC WORKS DEPARTMENT
305 W Third St, East Wing, Third Fl
Oxnard, CA 93030
Attn: Project Manager – PW 25-16

TO CONTRACTOR: R.E. SCHULTZ CONSTRUCTION, INC.
1767 N Batavia St
Orange, CA 92865
Attn: Richard Schultz

- B. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.
- C. Either Party, or the surety, may change its address by giving notice in writing to all other parties listed above, and thereafter notices shall be addressed and transmitted to such new address.

26. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Contractor or to its successor(s), or for any breach of any obligation of the terms of this Contract.

27. REVIEW BY ATTORNEYS

Each Party hereto has had its attorneys review this Contract and all related documents. Each Party hereto has consulted with its attorneys and has negotiated the terms of this Contract based on such consultation.

28. BONDS

Concurrently with the execution of this Contract by the Contractor, and before the commencement of any Work, Contractor shall furnish to the City a Performance Bond, and a Payment Bond (Labor and Materials Bond) each in an amount equal to one hundred percent (100%) of the Contract Price written on the forms included in the Contract Documents. These bonds must remain in force

until the later of (a) the expiration of the one-year guarantee period; or (b) one year from the date of completion of the corrective Work. Such bonds must be issued by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California.

29. CARE OF WORK

Contractor must adopt reasonable methods during the life of the Contract to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies, and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the Work by the City, except those losses or damages as may be caused by the City's own negligence. The performance of the Work by Contractor or the payment of money by the City shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective Work (including the obligation to remedy any defective Work or materials during the one-year guarantee period after the City's acceptance thereof) at no further cost to the City.

30. CAPTIONS AND HEADINGS

The captions and headings contained in this Contract are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

31. OWNERSHIP OF DOCUMENTS

No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

32. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Contract shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties. This Contract may not be assigned or transferred by Contractor without the concurrence of the surety and express written consent of the City.

33. GENDER; PLURAL

In this Contract, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

34. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Contract and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

35. GOVERNING LAW

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the Parties under this Contract, shall be construed pursuant to and in accordance with California law.

36. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Contract, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

37. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Contract and all proceedings involving any enforcement action related to this Contract shall be initiated and conducted in the applicable court or forum in Ventura County, California.

38. EFFECTIVENESS OF CONTRACT

This Contract shall not be binding upon the City until signed by the authorized representative(s) of Contractor, approved by the City's Risk Manager and as to form by the City Attorney, and executed by the authorized City personnel or the Mayor.

39. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING CONTRACT

Each of the Parties to this Contract hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Contract a binding obligation of each of the Parties hereto. The persons executing this Contract warrant that they are duly authorized to execute this Contract on behalf of and bind the Parties each purports to represent.

40. WAIVER

No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default under this Contract shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Contract.

41. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor. All persons working for or under the direction of the Contractor are the Contractor's employees, agents, or subcontractors, and they shall not be deemed agents, servants, or employees of the City.

42. COUNTERPARTS

This Contract may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Contract.

43. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by Law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the Contract shall forthwith be physically amended to make such insertion or correction.

44. ATTORNEY'S FEES

If either Party commences an action against the other Party, whether legal, administrative, or otherwise, arising out of or in connection with this Contract, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

[END OF THIS PAGE – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have entered into this Contract effective on the date as stated herein and upon signature of all Parties.

CITY OF OXNARD

R.E. SCHULTZ CONSTRUCTION, INC.

☒ Luis Mc Arthur, Mayor¹
☐ Purchasing Agent

Date

Richard Schultz, ²
President and Secretary

Date

ATTEST:

Lourdes A. López, City Clerk
(only if Mayor signs)

Date

APPROVED AS TO FORM:

Stephen M. Fischer
City Attorney (always required)

Date

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000. The Purchasing Agent may execute any authorized agreement up to \$200,000.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

CONTRACT EXHIBITS

- Exhibit A:** Contractors Bid Proposal.
- Exhibit B:** Form INS-D: Insurance Requirements.
- Exhibit C:** [RESERVED]
- Exhibit D:** Small/Minority/Women's Business Enterprises and Labor Surplus Area Firm Outreach
- Exhibit E:** Grant Contract Addendum
- Exhibit F:** Grant Master Agreement
- Bonds**

The corresponding exhibits and forms contained within follow.

EXHIBIT A**CONTRACTOR'S BID PROPOSAL****BID SCHEDULE****CITYWIDE PLAYGROUND REPLACEMENT PROJECT – DEL SOL PARK**

Per Capita Grant Contract No. C9801743

SPECIFICATION NO. PW 25-16

Bidder's Company Name: R.E. Schultz Construction, Inc.

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby declares they have carefully examined the locations of the proposed work, the Plans, the Special Provisions, Bid Item Descriptions, and Contract documents; and hereby proposes to furnish all labor, materials, tools, equipment, supplies and incidentals required to complete the work. All of the aforementioned shall be done in accordance with said Plans, Special Provisions, and other Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	TOTAL AMOUNT
1.	Mobilization / Demobilization (5% Maximum of the Total Bid Price)	1001-3	LS	\$ 9,500.00
2.	Temporary Fencing and Protection	1003-4	LS	\$ 2,000.00
3.	Play Area Equipment & Materials Removals	1004-4	LS	\$ 18,500.00
4.	Concrete Work	1005-4	LS	\$ 10,000.00
5.	Play Area Equipment	1006-5 1009-4	LS	\$ 155,435.00
6.	Engineered Wood Fiber	1007-4	LS	\$ 15,355.00
7.	Resilient Surfaces	1008-4	LS	\$ 6,750.00
8.	Bond Act Signage (Grant Requirement)	1010-3	LS	\$ 1,000.00
TOTAL BASE AMOUNT:				\$ 218,540.00

TOTAL BID PRICE IN DIGITS: \$ 218,540.00**TOTAL BID PRICE IN WORDS:** Two Hundred and Eighteen Thousand Five Hundred and Forty Dollars.Bidder's Company Name: R.E. Schultz Construction, Inc.Signature: Title: President, Sole OfficerPrint: Richard SchultzDate: 1/15/25

EXHIBIT B

FORM INS-D: INSURANCE REQUIREMENTS

FOR SMALL/MEDIUM CONSTRUCTION AND SERVICES CONTRACTS (WITHOUT BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.
 - a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;
 - b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"
 - c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.
 - d. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.
2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-D. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org
3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.
4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-D or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**
5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-D.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
CODE SUB-CODE		COMPANIES AFFORDING INSURANCE COVERAGE			
INSURED		COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE			
		COMPANY LETTER B			
COVERAGES					
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Agreement				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS					
CERTIFICATE HOLDER CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 462500-4299 US			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE D Broker/Agent D Underwriter D I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: (_____) _____ Date Signed _____		

GENERAL LIABILITY SPECIAL ENDORSEMENT			SUBMIT IN DUPLICATE	
FOR THE CITY OF OXNARD (the "City")			ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER			POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE D Included in Limits D In Addition to Limits	
Telephone:			D Deductible D Self-Insured Retention (check which) of \$ applies to coverage. D Per	
NAMED INSURED				
TYPE OF INSURANCE			APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here D in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
GENERAL LIABILITY D COMMERCIAL GENERAL LIABILITY D Claims Made D COMPREHENSIVE GENERAL LIABILITY Retroactive Date D OWNERS & CONTRACTORS PROTECTIVE			OTHER PROVISIONS	
COVERAGES			Underwriter=s representative for claims pursuant to this insurance.	
D GENERAL D PRODUCTS/COMPLETED OPERATIONS D PERSONAL & ADVERTISING INJURY D FIRE DAMAGE D			CLAIMS: Name: Address: Telephone: ()	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:				
1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.				
2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.				
3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.				
4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.				
5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.				
6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.				
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.				
ENDORSEMENT HOLDER				
CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 462500-4299 US			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE D Broker/Agent D Underwriter D I (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature (original signature required) Telephone: () Date Signed	

[illegible]

EXHIBIT C
RESERVED FOR
FOR IRAN CONTRACTING ACT CERTIFICATION FORM
COMPLETED BY CONTRACTOR FOR CONTRACTS OVER ONE MILLION DOLLARS
(NOT APPLICABLE)

THIS PAGE INTENTIONALLY LEFT BLANK

EXHIBIT D**SMALL / MINORITY / WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS
AREA FIRM OUTREACH PLAN**

CITYWIDE PLAYGROUND REPLACEMENT PROJECT - DEL SOL PARK

Project Number: Per Capita Grant Contract No. C9801743

SPECIFICATION NO. PW 25-16

Contractor: R.E. Schultz Construction, Inc.Submittal #: N/A

In this section, the Contractor is to provide details regarding strategies and efforts made to solicit, engage and utilize small and minority businesses, women's business enterprises (S/M/WBE) and labor surplus area (LSA) firms to demonstrate responsiveness to 2 CFR § 200.321.

1. Identify the items of work made available to S/M/WBEs and LSAs. Provide a description of the work items, approximate dollar amount and the percentage of the total Contract value.

Description of Work Item	Contractor Normally Performs (Y/N)	Unbundled from Larger Scope (Y/N) If Yes, List Scope	Amount (\$)	Percentage of Contract
N/A	N/A	N/A	N/A	N/A

2. Describe the outreach efforts to identify S/M/WBEs and LSAs on this Agreement, list agencies/associations/databases consulted and the date, method and result of the outreach efforts (examples include but are not limited to: Small Business Administration, the Minority Business Development Agency, the Department of Commerce, minority business associates, Small Business Development Centers, DGS).

Agency/Association on Chamber/Databas e Name	Contact Name	Method of Outreach (fax, Email, Phone, etc.)	Date of Outreach	Response / Outcome
Challenge News	Pam Aberg	Publication Advertisements	1/7/25 1/14/25	No Response
California Daily Bid Advisor	Pam Aberg	Publication Advertisements	1/7/25 1/14/25	No Response

3. Describe the outreach efforts exerted to ensure that qualified S/M/WBEs and LSAs were solicited and had sufficient information about subcontracting opportunities on this Contract. Include the date and method of the outreach efforts.

S/M/WB E and LSA Firm Name	Contact Name / Title	Business Type (Small / Minority / Women)	Outreach Method (Fax, Email, Phone, etc.)	Initial Outreach Date	Follow-Up Date	Response / Interested in Bidding (Y/N)
See attached	list	DVBE, DBE, EBE, ELBE, WBE, OBE, SBE	Email	1/7/25	N/A	N

4. Detail methods utilized to determine whether S/M/WBEs and LSAs were qualified:

Obtained list from Cal eprocure - The State of California Certification.

5. What approach was taken to arrange subcontracting work in a way that would encourage the participation of S/M/WBEs and LSAs on this Agreement. Provide examples of how delivery schedules, when permissible, were established in a way that would encourage participation by S/M/WBEs and LSAs.

N/A

6. Identify any contractual requirements, incentives, or other measures your team utilized or considered utilizing on this Agreement to promote S/M/WBE and LSA assistance. This may include assistance in meeting insurance limits, bonding requirements, obtaining certifications or licenses that are appropriate in facilitating the type of work the S/M/WBEs and LSAs would be performing.

N/A

EXHIBIT E

GRANT CONTRACT ADDENDUM

**City of Oxnard – State of California – Natural Resources Agency
Department Of Parks and Recreation “Per Capita Grant” Contract No. C9801743**

Certifications requiring signature from the Contractor follow at the end of this Document.

1. Equal Opportunity. Contractor shall comply with Executive Order 11246, “Equal Employment Opportunity,” as amended by EO 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Small and Minority Business, and Women’s Business Enterprises (if applicable to this Contract, see SBE/MBE/WBE/LSA form attached below)

Contractor hereby agrees to comply with the following when applicable: The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), when applicable. Accordingly, the Contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified women’s business enterprises and small and minority businesses on solicitation lists;
- b. Assuring that women’s enterprises and small and minority businesses are solicited whenever they are potential sources;
- c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women’s business enterprises;
- d. Where the requirement permits, establishing delivery schedules which will encourage participation by women’s business enterprises and small and minority business;
- e. Using the services and assistance of the Small Business Administration, and the U.S. Office of Minority Business Development Agency of the Department of Commerce; and
- f. If any subcontracts are to be let, requiring the prime Contractor to take the affirmative steps in a through e above.

For the purposes of these requirements, a Minority Business Enterprise (MBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by members of the following groups: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Natives. A Women Business Enterprise (WBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by women.

2. Suspension and Debarment. (Applies to all purchases. See certification form attached below.)

(A) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

(B) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(C) This certification is a material representation of fact relied upon by the City of Oxnard. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(D) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended. (Applies to all purchases. See certification form attached below.) Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

4. Access to Records. (applies to all purchases.)

(A) The Contractor agrees to provide the City of Oxnard, the U.S. Department of Treasury, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means or to copy excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests.

(B) The Contractor agrees to provide the Treasury Department or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(C) No language in this contract is intended to prohibit audits or internal reviews by the Treasury Department or the Comptroller General of the United States.

5. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.

6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 through 3708) (Applies only to purchases over \$100,000, when laborers or mechanics are used.) Where applicable, all contracts in excess of \$100,000 that involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. 3702 and 3704 of the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 3702 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Clean Air Act & Federal Water Pollution Control Act (Applies to purchases of more than \$150,000.)

(A) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(B) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(C) The Contractor agrees to report each violation of the Clean Air Act and the Water Pollution Control Act to the City of Oxnard and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(D) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

8. Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)

Contractor is prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by **Huawei Technologies Company or ZTE Corporation** (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

9. Buy USA - Domestic Preference for certain procurements using federal funds.

Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

- (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

10. Procurement of Recovered Materials: (Applies only if the work involves the use of materials)

(A) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: i. Competitively within a timeframe providing for compliance with the contract performance schedule; ii. Meeting contract performance requirements; or iii. At a reasonable price.

(B) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

(C) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

12. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

13. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

14. Davis-Bacon Act. (applies to projects over \$2000)

(A) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction) as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

(B) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

(C) Additionally, contractors are required to pay wages not less than once a week.

15. Compliance with the Copeland "Anti-Kickback" Act. (applies when Davis-Bacon Act is required)

(A) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(B) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(C) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

BYRD ANTI-LOBBYING CERTIFICATION

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, R.E. Schultz Construction, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.


Signature of Contractor's Authorized Official

Richard Schultz, President, Sole Officer
Printed Name and Title of Contractor's Authorized Official

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

(Lower Tier refers to the agency or Contractor receiving Federal funds, as well as any subcontractors that the agency or Contractor enters into contract with using those funds)

As required by Executive Order 12549, Debarment and Suspension, and 31 CFR Part 19, and 2 CFR part 180, City may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any Contractor that is debarred, suspended, or ineligible under 31 CFR Part 19.

Instruction for Certification

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph 2 of this certification, and

4. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

5. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Richard Schultz
Name

President, Sole Officer / R.E. Schultz Construction, Inc.
Title and Organization Name


Signature

1/15/25
Date

EXHIBIT F
GRANT MASTER AGREEMENT
STATE OF CALIFORNIA– NATURAL RESOURCES AGENCY
DEPARTMENT OF PARKS AND RECREATION
“PER CAPITA GRANT” CONTRACT NO. C9801743

DocuSign Envelope ID: D7C338C3-9851-4A6D-963F-0DD329EB4E50

State of California – Natural Resources Agency
 DEPARTMENT OF PARKS AND RECREATION

AMENDMENT TO CONTRACT

Contract No. C9801743 Amendment No. **1**

THIS AMENDMENT is hereby made and agreed upon by the State of California, acting through the Director of the Department of Parks and Recreation and by the City of Oxnard

The State and, City of Oxnard in mutual consideration of the promises made herein and in the contract in which this is an amendment, do promise as follows:

1. To extend the grant performance period from June 30, 2024, to June 30, 2028.
2. To add III. Special Provision, A Economic Sanctions

In all other respects, the contract of which this is an amendment, and the terms and conditions if relevant thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this amendment as of the date entered below.

Applicant: City of Oxnard

By M. T. Wade

Title Public Works Director

Applicant's Authorized Representative as shown in Resolution

Date 10/3/23

STATE DEPARTMENT OF PARKS AND RECREATION

By Maria OlmosDate 11/24/2023

CERTIFICATION OF FUNDING
(FOR STATE USE ONLY)

CONTRACT NO C9801743	AMENDMENT NO 01	FISCAL SUPPLIER I.D. 0000011778	PROJECT NO 18-56-015
AMOUNT ENCUMBERED BY THIS DOCUMENT 0	FUND Drought, Water, Cln Air, Cstl Protc, Outdoor Fund		
PRIOR AMOUNT ENCUMBERED BY THIS CONTRACT \$177,952	ITEM 3790-101-6088	CHAPTER 29	STATUTE 18 *
TOTAL AMOUNT ENCUMBERED TO DATE \$177,952	Reporting Structure 37900091	Account/Alt Account 5432000-5432000000	FISCAL YEAR 2023/24
		ACTIVITY CODE 69801	PROJECT/WORK PHASE

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and City of Oxnard (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed \$177,952, subject to the terms and conditions of this AGREEMENT and the 2018/19 California State Budget, Chapter 29, statutes of 2018, Item number – 3790-101-6088 (appropriation chapter and budget item number hereinafter referred to as "PER CAPITA GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 01, 2018 to June 30, 2028.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.
2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.
4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.
6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.
7. The term "PROCEDURAL GUIDE" means the document identified as the "Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program." The

PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Project Costs

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds may be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and

- any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.
2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.
 3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.
5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.
3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified,

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project

termination or issuance of final payment, whichever is later.

2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.
4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.
2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.
4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.
2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE's and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

III. Special Provisions

A. Economic Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering into

any new contracts with individuals or entities that are determined to be a target of Economic Sanctions. This Executive Order extends to recipients of any State Grants (Grantee). Grantees include those who have contracted or will contract to receive State grant funds. Accordingly, should the State determine that a Grantee is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide the Grantee with advance written notice of such termination, allowing the Grantee at least 30 calendar days to provide a written response. Termination of any contract found to be in violation of the Executive Order shall be at the sole discretion of the State.

City of Oxnard
GRANTEE

By: M2. Wroge
Signature of Authorized Representative

Title: Public Works Director

Date: 10/3/23

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By: Maria Flores
Designated by:
ASAP506001541C

Date: 11/24/2023



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Funding Sources Form

GRANTEE: City of Oxnard	PROJECT Name Del Sol Park Playground Replacement Project
----------------------------	---

PROJECTS funded by the program are not complete until the PROJECT SCOPE is complete, and the PROJECT is open to the public. PROJECTS will:

- Be entirely funded by the GRANT, or
- Require funds in excess of the GRANT.

If the PROJECT requires funds in excess of the GRANT, the SCOPE of the PROJECT may be either the SCOPE of the larger project, or a subset of the larger project.

For example, if the PROJECT is \$100,000 towards construction of a \$500,000 park, the SCOPE can be the \$500,000 park, or a \$100,000 element of the park, such as a playground, that can be complete and open to the public.

- ☐ The PROJECT will be entirely funded by the GRANT, or
- ☒ The PROJECT requires funds in excess of the GRANT:
- ☒ The SCOPE is the same as the scope of the larger project, or
 - ☐ The SCOPE is a subset of a larger project, the scope of that larger project is:

Larger project cost: \$

Anticipated completion date:

List all funds that will be used. Submit revised Funding Sources form should funding sources be added or modified.

Funding Source	Date Committed	Amount
Per Capita/State of California	July 1, 2010	\$ 177,362
City of Oxnard	July 1, 2022	\$ 72,048
		\$

I represent and warrant that I have full authority to execute this Funding Sources Form on behalf of the GRANTEE. I declare under penalty of perjury, under the laws of the State of California, that this status report, and any accompanying documents, for the above-mentioned GRANT is true and correct to the best of my knowledge.

Michael L. Wolfe 4/18/22
AUTHORIZED REPRESENTATIVE Signature Date

Michael L. Wolfe, P.E., Public Works Director

Print Name and Title

Bond No. _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to R.E. Schultz Construction, Inc. 1767 North Batavia Street, Orange, CA 92865 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CITYWIDE PLAYGROUND REPLACEMENT PROJECT - DEL SOL PARK SPECIFICATION NO. PW 25-16.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of TWO HUNDRED AND EIGHTEEN THOUSAND, FIVE HUNDRED AND FORTY DOLLARS, (\$218,540.00), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor

Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

R.E. Schultz Construction, Inc.
1767 North Batavia Street
Orange, CA 92865

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

Its _____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to

R.E. Schultz Construction, Inc. 1767 North Batavia Street, Orange, CA 92865 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CITYWIDE PLAYGROUND REPLACEMENT PROJECT - DEL SOL PARK SPECIFICATION NO. PW 25-16.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of TWO HUNDRED AND EIGHTEEN THOUSAND, FIVE HUNDRED AND FORTY DOLLARS, (\$218,540.00), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

R.E. Schultz Construction, Inc.
1767 North Batavia Street
Orange, CA 92865

By: _____

Its: _____

“Surety”

By: _____

Its: _____

By: _____

Its: _____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Playground Replacement Budget Tracking	Construction/ Net Contract Award	Authorized Contingency	ESPIM Authorized Funding	Total/Net Project Value	Budget Balance
Starting Budget Balance (Project C2239)					\$3,992,925.40
Dunkirk Park PW 24-113R 32500253	\$126,793.00	\$12,679.30	\$12,679.30	\$152,151.60	\$3,840,773.80
Community Center Park West PW 25-51 32500320	\$134,000.00	\$13,400.00	\$13,400.00	\$160,800.00	\$3,679,973.80
Marina West PW 24-13R ¹ 32500251	\$83,337.00	\$21,853.00	\$21,853.00	\$127,043.00	\$3,552,930.80
College Estates Park PW 24-126 32500303	\$199,993.90	\$20,000.00	\$20,000.00	\$239,993.90	\$3,312,936.90
Fremont Tot Park PW 25-48 32500304	\$321,850.00	\$32,185.00	\$32,185.00	\$386,220.00	\$2,926,716.90
Wilson Park PW 20-53R ² 32500341	\$145,970.26	\$25,426.00	\$25,426.00	\$196,822.26	\$2,729,894.64
Carty Park PW 24-125 32500302	\$169,219.30	\$16,922.00	\$16,922.00	\$203,063.30	\$2,526,831.34
Ololkoy Beach Park PW 25-49R	\$408,133.00	\$40,813.00	\$40,813.00	\$489,759.00	\$1,873,718.69
Brekke Park PW 24-115R ³ 32500293	\$136,127.65	\$13,613.00	\$13,613.00	\$163,353.65	N/A
Del Sol Park PW 25-16 ⁴ 32500418	\$218,540.00	\$21,854.00	\$21,854.00	\$262,248.00	N/A
¹ Partially funded by Project C1313 utilizing QUIMBY funds (\$135,189.00)					
² Partially funded by Project C2019 utilizing CDBG funds (\$108,296.85)					
³ Fully funded by Project C2404 using Measure O funds					
⁴ Fully funded by Project C2220 utilizing Capita Grant funds and General Fund					



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.8

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Purchase Order with Municipal Maintenance Equipment for VAC-CON for Wastewater Division.

RECOMMENDATION

That the City Council approve and authorize the Purchasing Agent to execute a Purchase Order with Municipal Maintenance Equipment (MME) in the amount not to exceed \$779,155.72 for the purchase of a VAC-CON sewer cleaning vehicle mounted on a Freightliner 114SD truck chassis for the Wastewater Division.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)

BACKGROUND

State regulations require that public wastewater systems develop and submit a Sanitary Sewer Management Plan (SSMP). The intent of the SSMP is to document a formal process for operating and maintaining the sanitary sewer collection system to minimize sanitary sewer overflows. The SSMP includes items such as required documentation, organizational structure and staffing, emergency response, and regular operation and maintenance activities. The Oxnard SSMP has identified a goal of cleaning 200 miles of sewers on an annual basis.

To meet this goal, the Wastewater Division owns and operates three sewer cleaning vehicles (SCVs) to maintain over 415 miles of sewer pipelines within the City's wastewater collection system. These vehicles are essential for daily sewer maintenance, ensuring the efficient conveyance of wastewater to the treatment plant. SCVs utilize high-pressure water to clean the interior of sewer pipes to reduce the risk of sanitary sewer overflows. Additionally, they are equipped with high-volume vacuum hoses to extract solid and liquid materials from sewer manholes. The Wastewater Division's performance goal of cleaning at least 200 miles of sewer pipelines annually or nearly four miles per week requires three (3) reliable SCVs and a team of skilled personnel.

Failure to meet the performance goal could lead to sanitary sewer overflows (SSO), where untreated sewage is released into the environment. The statewide average for SSOs is 13.56 per 100 miles of sewer lines annually. However, the City of Oxnard outperforms the average, having experienced only two SSOs in the past five years, due to effective management of its sewer system. An overflow not only presents a risk to public health and safety but also exposes the City to potential fines of \$10 per gallon from the State Water Resources Control Board.

On January 31, 2024, the Wastewater Division submitted its fleet of 23 vehicles, each with a gross vehicle weight exceeding 8,500 lbs, to the California Air Resources Board (CARB) for compliance review and received a unique identification number, 236898. The Division selected Compliance Option 1, which permits the continued purchase of internal combustion engine (ICE) vehicles, provided an equal number of electric vehicles are acquired within the same calendar year. Of the 23 heavy vehicles the division operates, 21 are in good or reliable condition, with only two requiring replacement in the near future. Notably, one of the vehicles requiring replacement is a 2012 Vactor brand SCV, vehicle 12401, which has been out of commission since May 2024. During this time, the Wastewater Division has seen a decrease in sewer cleaning capability, which increases the likelihood of SSO.

The VAC-CON models have proven reliable and are essential to maintaining the City's collection system. Owning three similar VAC-CON vehicles allows for efficiencies in sharing related vehicle components and service contracts.

DISCUSSION

On October 22, 2024, the Wastewater Division received a Sourcewell quote from MME, for a VAC-CON Titan Model TAQD350LH/1000 mounted on a Freightliner 114SD Plus 4x2 truck chassis. Sourcewell is a cooperative purchasing program that unites the buying power of government, education, and nonprofit organizations. By utilizing hundreds of competitively solicited and awarded contracts, Sourcewell simplifies the public procurement process and ensures the efficient use of budgeted dollars. Thousands of public entities are enrolled as participating agencies in this program.

This new SCV will replace vehicle 12401, a 2012 Vactor SCV mounted on an International chassis. Vehicle 12401 has over 63,000 intercity miles, requires costly engine repairs, is no longer reliable, and has outlived its useful life. Completed repairs over the last three years include the engine water pump, oil pump, water jet pump, vacuum swivel bearings, and the exhaust gas recirculation cooler on multiple occasions. Since 2021, vehicle 12401 has had approximately \$52,000 in repairs. Over the last year, the vehicle has been out of service for repair for approximately nine months. As the vehicle has aged, repairs have become more frequent and components are showing symptoms of repeated failure, outside of the warranty period.

Additionally, as of 2024, there are no electric VAC-CON SCV models available on the market. The Wastewater Division will maintain compliance with the California Air Resources Board (CARB) by procuring an electric vehicle within the same calendar year (2025). The CARB ZEV compliance method permits the purchase of internal combustion engine (ICE) vehicles, provided that 50% of all newly acquired vehicles are electric, ensuring a balanced 1:1 ratio of ICE to electric vehicles within a calendar year. This will not pose an additional financial burden on the division as two electric vehicles were already being planned to replace two aging ICE pickup trucks.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost of this Purchase Order with Municipal Maintenance Equipment shall not exceed \$779,155.72 through June 30, 2026, for the purchase of a VAC-CON sewer cleaning vehicle. The estimated delivery date of the unit is 35 weeks from the vendor's receipt of the City's Purchase Order.

Through the Sourcewell Purchasing cooperative contract 101221-VAC, MME can provide the VAC-CON sewer cleaning vehicle at governmental discounts through the contract term of November 29, 2025. There are sufficient funds available in the FY 2024-25 Adopted Budget from the Wastewater Operations Fund 611 (6113613-56040) for the purchase of this vehicle.

Historically, the Wastewater Division purchased VAC-CON model vehicles in 2020 and 2023, for \$411,934.45 and \$558,637.71, respectively. The increased cost from the 2023 model to the requested model is a result of:

- Supplier and manufacturer price increases
- Improved safety features (Mobile equipment allowing Staff to place the vehicle body between them and traffic)
- More powerful and quieter vacuum
- Electronically controlled valves

Aside from new equipment requiring less maintenance and repairs, the Vac-Con includes a warranty period for mechanical and electrical failures. The warranty period for this unit is 1 year for the chassis and 2 years for the mechanical equipment.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on January 28, 2025 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Timothy Beaman, Assistant Public Works Director, Jan Hauser, Wastewater Division Manager, Luis Ortega, Management Analyst

ATTACHMENTS

1. Vac-Con Sourcewell Quote
2. Vac-Con Contract 101221
3. Vac-Con 101221-VAC Pricing



CSLB #980409
DIR 1000004282
www.source-mme.com
Toll Free 1-888-484-9968

February 5, 2025

City of Oxnard
6001 S. Perkins Road
Oxnard, CA 93003

Tel: 805-797-7411
rodolfo.camacho@oxnard.org
luis.ortega@oxnard.org

Attention: Rudy Camacho
Luis Ortega

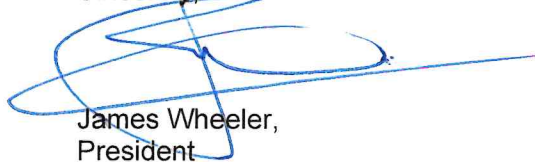
We are pleased to provide the enclosed contract pricing sheet off the Sourcewell Contract No. 101221-VAC for One (1) for the Vac-Con TAQD350H/1000 Titan mounted on a new Freightliner Model 114SD Plus 4x2 truck chassis for your review.

Summary:	Complete Unit per attached Sourcewell price sheet	
	Price F.O.B. Oxnard, CA	\$713,176.40
	9.25% Estimated Sales Tax	65,968.82
	CA Tire Fee (6 @ \$1.75)	10.50
	Total	\$779,155.72

- Vac-Con is the Sourcewell contract holder and all purchasing documents are to go directly to them. **City's Purchase Order to be prepared and sent directly to Vac-con, Inc.**
969 Hall Park Drive, Green Cove Springs, FL 32043
M.J. Dubois (410) 924-1004 mjdubois@ducollc.com
- Municipal Maintenance Equipment, Inc. is the local dealer and will provide on-site training, warranty support, and future service for the Vac-Con products.
- Pricing includes delivery and on-site training.
- CARB Disclosure: A vehicle operated in California may be subject to California Air Resources Board Advanced Clean Fleets regulations. It therefore could be subject to the requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>
- Due to California emissions requirements, special permits may be required on diesel engines. MME cannot provide these permits and we recommend you contact your local Air Resources Management District for the specific requirements.
- Normal delivery 180-240 days A.R.O., depending on chassis and component availability during production.
- Sales tax applicable at time of delivery will be shown on invoice.
- Terms: per Sourcewell Program.
- Quotation valid until March 30, 2025

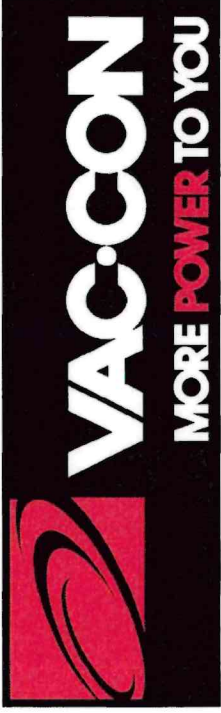
Thank you for your interest in this fine product. Should you have any questions or need additional information, please let us know. We look forward to being of service.

Sincerely,



James Wheeler,
President

Enclosure



02/05/2025

NEW SOURCEWELL TITAN COMBINATION JET/VACUUM SEWER CLEANER

Sourcewell Contract: 101221-VAC

Customer: CITY OF OXNARD

Shipping: CALIFORNIA

Requirement Specification	
Combination jet/vacuum sewer cleaner with all standard equipment TAQD350H/1000 (TITAN PACKAGE)	
Sourcewell Discount	
5 Yard debris tank	
Freightliner model 114SD Plus (Carb Unit) 4 x 2 chassis with a Cummins L9 370 HP Engine, Allison 3000RDS transmission *Special Order Chassis	
Body mounting on Chassis	
AQD Fan Drive for Titan	
10" Aluminum telescoping boom with pendant control station	
PRO Reel (Precision Reel Operation) Articulating to driver's and curb side (800 x 1" Capacity) Includes 12VDC Auxiliary hydraulic pump	
1000' x 3/4" Jet rodder hose -non continuous	
50 GPM @ 3,000 PSI Giant water pump with a GM 6.0 Gas 172 HP auxiliary engine with auxiliary engine hydraulics	
1000 Gallon polyethylene water tank capacity with 10 year warranty	
Pirana brand hose	
Gravity drain system	
Rear splash guard (2 - 10 O'clock) tank mounted	
1/4 Turn ball valve water drain	
100' Capacity hand gun hose reel	
Debris body Power Flush-out system with 8 jets	

Requirement Specification	
Hydro excavation system	
Pre-tank water filter Y type	
Variable flow valve	
Water pump remote oil drain	
Power Guide "Reel Power" level wind guide	
Auxiliary engine remote oil drain	
Three Cone storage racks - two racks rear of frame, one rack behind front bumper curbside	
Remote boom grease zerkl assembly	
Remote debris tank grease assembly	
LED 4 Strobes (2) Front bumper, (2) Rear bumper	
LED Arrow board	
LED Boom mounted flood lights with limb guards	
LED Flood light - level wind guide	
LED Rear mounted flood lights with limb guard	
Two LED Strobe with limb guard, rear debris tank mounted	
Midbody LED Strobes	
Rear Camera Placement	
Wireless remote control	
Traffic Camera system with color monitor	
100' hydro x reel in lieu of 50'	
Two 5 gallon bucket holders - one mounted driver side behind cab, 2 nd one best available position	
Both low and high pressure hose reels mounted behind cab	
Cab switch pack and arrow board controller to be mounted in head liner	
Cone storage to be installed so cones are mounted upright	

Requirement Specification	
Two LED debris tank strobes to be Whelen mini legacy GSDS amber	
Four pvc tool storage racks behind cab	
Front mounted light bar in lieu of mirror mounted strobes - 53" legacy low profile lightbar #GS2A	
No Vac-Con logo on debris tank	
Two pac-locks to be mounted to sub-frame, 5 each side	
Rear arrow board to be Whelen TA165NFI - 16 lights	
Six upgrade 6 corner LED strobes to Whelen 5V1 amber series	
Water fill meter installed - customer supplied	
3/4" x 15' length leader hose	
Lazy Susan pipe rack	
Two front bumper tool boxes 8" x 14" x 6" aluminum	
Two roll out shelves for storage box behind cab	
12" x 18" x 96" steel tool box mounted under storage box behind cab	
Nozzle tool box steel, 16" x 18" x 30" deep	
6' x 8" aluminum pipe extension	
8" quick clamp, extra	
Special chassis paint color: Dupont Yellow 748720	
Vac-Con unit painted: Dupont Yellow 748720	
Safety Striping package - White	
Local dealer pre delivery and inspection	
On site customer training	
Delivery to customer facility	
TOTAL CONTRACT PRICE	\$713,176.40
Sales Tax - 9.25%	\$65,968.82
California Tire Fee	\$10.50

Requirement Specification	
TOTAL PRICE OFFERED TO SOURCEWELL MEMBER INCLUDING TAX	\$779,155.72

Delivery is ____ Days after receipt of order.

SOURCEWELL CONTRACT NO 101221-VAC

VENDOR/CONTRACT HOLDER: VAC-CON, INC.

CONTACT: M.J. DUBOIS

EMAIL: MJDUBOIS@DUCOLLC.COM

969 HALL PARK RD

PHONE: 410-924-1004

GREEN COVE SPRINGS, FL 32043

THIS QUOTE IS VALID FOR 30 DAYS

**Solicitation Number: RFP #101221****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Vac-Con, Inc., 969 Hall Park Road, Green Cove Springs, FL 32043 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Sewer Vacuum, Hydro-Excavation, and Municipal Pumping Equipment with Related Accessories and Supplies from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires November 29, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be

returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;

- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell

contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be negotiated directly between the Participating Entity and the Supplier. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased

by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
 - b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers,

resellers, marketing representatives, and agents (collectively “Permitted Sublicensees”) in advertising and promotional materials for the purpose of marketing the Parties’ relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

- a. Neither party may alter the other party’s trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.
- b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party’s trademarks only in good faith and in a dignified manner consistent with such party’s use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Supplier agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Supplier in violation of applicable patent or copyright laws.

5. **Termination.** Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party’s name or logo (excepting Sourcewell’s pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell’s written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. ENDORSEMENT. The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is

primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names

of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation

and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

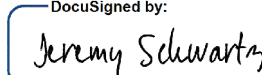
T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

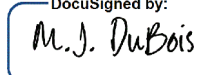
22. CANCELLATION

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

Vac-Con, Inc.

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 11/23/2021 | 8:51 PM CST

DocuSigned by:

By: C65CBA257A53411...
M.J. DuBois, President, DuCo, LLC
Title: Authorized Contract Administrator
Date: 11/24/2021 | 5:31 AM PST

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 11/24/2021 | 6:46 PM CST

RFP 101221 - Sewer Vacuum, Hydro-Excavation, and Municipal Pumping Equipment with Related Accessories and Supplies

Vendor Details

Company Name:	DuCo, LLC
Address:	1079 Tamiami Trl N #350 Nokomis, Florida 34275
Contact:	MJ DUBOIS
Email:	mjdubois@ducollc.com
Phone:	410-924-1004
Fax:	410-924-1004
HST#:	81-1963530

Submission Details

Created On:	Thursday August 26, 2021 08:52:11
Submitted On:	Friday October 01, 2021 11:10:04
Submitted By:	MJ DUBOIS
Email:	mjdubois@ducollc.com
Transaction #:	0b410897-713e-434f-9209-2bd4698d22a6
Submitter's IP Address:	24.145.112.96

Specifications**Table 1: Proposer Identity & Authorized Representatives**

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Vac-Con, Inc. EIN: 36-3846929	*
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Vector Technologies LTD	*
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	N/A	*
4	Proposer Physical Address:	969 Hall Park Road Green Cove Springs, FL 32043	*
5	Proposer website address (or addresses):	www.vac-con.com	*
6	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	M.J. DuBois, Authorized Contract Administrator - See attached Authorization Letter DuCo, LLC 1079 Tamiami Trl #350 Nokomis, FL 34275 410-924-1004 mjdubois@ducolc.com	*
7	Proposer's primary contact for this proposal (name, title, address, email address & phone):	M.J. DuBois, Authorized Contract Administrator DuCo, LLC 1079 Tamiami Trl #350 Nokomis, FL 34275 410-924-1004 mjdubois@ducolc.com	*
8	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Bryce Reiger, National Sales Manager Vac-Con, Inc. 969 Hall Park Road Green Cove Springs, FL 32043 904-610-6492 brycer@vac-con.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	
-----------	----------	------------	--

9	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Since 1986, Vac-Con®, Inc. has manufactured more than 9,000 custom-built, truck-mounted machines to serve public and private environmental markets globally. Located in Green Cove Springs, Florida, it is one of the largest producers of specialized vacuum solutions including sewer cleaning, hydro-excavation, and industrial vacuum equipment in North America. Vac-Con's goal, from day one, has been to design and actualize the most powerful and reliable machines in the industry, in turn allowing them to push the envelope year after year with unrivaled innovation. Vac-Con sells multiple product lines, including combination machines, jetting units, and hydro-excavators for a vast array of diverse applications. In 2012, Vac-Con, Inc. acquired Vector Technologies, LTD. Vector Technologies Ltd, located in Milwaukee Wisconsin, is a leading world designer and manufacturer of powerful trailer mounted hydro vacuum excavators, combination vacuum & sewer jetters, and sewer jetting units. For over forty years, Vector designs have set world standards for reliability and performance in a variety of industrial and specialized markets. Vector has provided solutions to organizations of all sizes for an endless number of diverse applications. The purchase of Vector allowed Vac-Con to offer a complete line of innovative, world leading designed sewer, hydro-excavation and vacuum products both truck and trailer mounted. Vac-Con believes in empowering the customer; their mission is to support, design, and manufacture innovative vacuum and high-pressure water cleaning solutions that deliver superior performance in municipal, industrial, and utility markets worldwide. In keeping with their customer-centric philosophy, Vac-Con®, Inc. delivers more than just a product; they provide unparalleled product support with their customer service, online training modules, and extensive network of authorized dealers. Vac-Con®, Inc. employs over 300 people at their Florida location, and 45 employees at their Milwaukee WI location and is 100% employee-owned, enabling a more focused work environment, on-site feedback, and around the clock innovation and testing. Vac-Con's Florida location is situated on 17 acres, it boasts a 160,000 square-foot, newly expanded facility where they manufacture over 30,000 unique parts that they use on our machines. This state-of-the-art facility is a result of Vac-Con® eagerness for continuous improvement and an employee-owner culture centered on advancement through involvement. Mission Statement "Our mission is to support, design, and manufacture innovative vacuum and high-pressure water cleaning solutions that deliver superior performance in municipal, industrial, and utility markets worldwide." Vision Statement "Our vision is to be the premier manufacturer of combination sewer cleaning, hydro-excavation, industrial vacuum, and high-pressure water jetting equipment. We are committed to providing innovative, high-quality products with unrivaled reliability, customer service, and support to dealers and end-users. Sustainable growth and employee-ownership value will be achieved by championing career-building talent and customer-centric initiatives. We will continue to make a positive impact in our local communities and on the environment."	*
10	What are your company's expectations in the event of an award?	As a current Sourcewell contract holder, Vac-Con hopes to continue to build on our past success with the contract and provide exceptional sewer cleaning and hydro-excavation equipment solutions to all prospective members. Vac-Con has developed a strong following with existing Sourcewell Members and Vac-Con expects to build on that momentum adding to your membership with the increased advancement and promotion of additional electronic marketing utilizing our premier partnership with Sourcewell. A newly awarded contract will allow Vac-Con to continue to provide Members with great products at a discounted price to Vac-Con's many existing municipal customers, grow our municipal base and open new opportunities in the educational and non-profit space.	*
11	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	See the provided attachments, Bank of the West reference letter, D & B credit rating report and Letter of Good Standing.	*
12	What is your US market share for the solutions that you are proposing?	Vac-Con operates in product categories that are sold primarily to the municipal government market segment and to a smaller degree, the commercial market segment. Vac-Con's market share is 29% as we are considered the most innovative, most efficient and have a diverse and comprehensive line of products within our market.	*
13	What is your Canadian market share for the solutions that you are proposing?	Vac-Con's Canadian Market Share is 8%. Vac-Con has signed a new dealer in Canada - Westvac Industrial. Westvac is a leading heavy equipment dealer in western Canada. We are looking forward to the 20+ years experience Westvac has to help grow our market share in British Columbia, Alberta, Saskatchewan, Manitoba and Northwest Territories. Vac-Con has an established dealer located in Quebec who has been active in that market for over 30 years with the Vac-Con product line.	*
14	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	Neither Vac-Con nor Vector has ever petitioned for bankruptcy protection.	*

15	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Vac-Con is a manufacturer of a diverse sewer, hydro-excavating, and industrial line of equipment. The complete line of equipment is sold, serviced and supported exclusively through Vac-Con's world-wide individually owned dealer network.
16	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Florida Department of Highway Safety & Motor Vehicles - Manufacturers License MV/1000409/1 Florida Department of Highway Safety & Motor Vehicles - Dealer License VI/1007965/1 Wisconsin Motor Vehicle Dealer License MV2131
17	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	Neither Vac-Con nor Vector has ever received a suspension or disbarment.

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
18	Describe any relevant industry awards or recognition that your company has received in the past five years	First Coast Manufacturer's Association - 2018 Manufacturer of the Year, 2019 Manufacturer of the Year, 2019 President's Award Best of Clay County - 2019 Best Manufacturing Facility in Clay County Florida, 2020 Best Manufacturing Facility in Clay County Florida, 2021 Best Manufacturing Facility in Clay County Florida National Association of Trailer Manufacturers - Vector manufactured units are NATM certified. National Truck Equipment Association - Most Valuable Partner Award for 5+ years.
19	What percentage of your sales are to the governmental sector in the past three years	Approximately 84% of Vac-Con and Vector sales for the last 5 years have been to the government sector. These customers typically consist of municipalities, townships, counties, and states.
20	What percentage of your sales are to the education sector in the past three years	Less than 3% of Vac-Con and Vector sales for the last five years have been to the education sector. Vac-Con has increased this number due to the previous Sourcewell Contract held. Vac-Con looks to, once again, increase this percentage with the next proposed contract award.
21	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	HGAC Contract total sales for the last three years is \$4.1 million. Ohio STS Contract total sales for the last three years is \$1.8 million. Texas Buyboard Contract total sales for the last year held is \$400K (only held this year) Florida Sheriff's Contract total sales for the last year held is \$200K (only held this year)
22	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	Vac-Con does not hold any GSA contracts or Standing Offers and Supply Arrangements.

Table 4: References/Testimonials

Line Item 23. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *
City of Lodi 1331 South Ham Lane Lodi, California	Andrew Richle Utilities Superintendent See attached Testimonial	209-269-4927 arichle@lodi.gov
Delaware DOT P.O. Box 698 Dover, DE 19903	Lawrence Hardy See attached Testimonial	302-760-2505 lawrence.hardy@delaware.gov
Village of Tarrytown 4 Division St. Tarrytown, NY 10591	Louis Martirano Superintendent Of Public Works See attached Testimonial	914-862-1819 dpw@tearrytowngov.com

Table 5: Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Sacramento Area Sewer District	Government	California - CA	Sewer Utility Equipment	10 units	\$3,400,000.00	*
City of San Francisco	Government	California - CA	Water & Sewer Utility Equipment	6 units	\$2,800,000.00	*
Miami-Dade County	Government	Florida - FL	Water & Sewer Utility Equipment	7 units	\$2,900,000.00	*
City of Phoenix	Government	Arizona - AZ	Sewer Utility Equipment	11 units	\$2,600,000.00	*
City of Sacramento	Government	California - CA	Sewer Equipment	9 units	\$3,860,000.00	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
25	Sales force.	Vac-Con customers are supported by internal teams fulfilling sales, parts and service needs, and distributes through a worldwide network of exclusive dealers. Vac-Con's internal teams function as support systems for our dealer network providing demonstrations, training, troubleshooting and order fulfillment. All Vac-Con sales, parts and service representatives are employee-owners of Vac-Con, Inc. Vac-Con's dealer network functions as the outward facing sales arm of the Vac-Con business. Their dealers are contractually exclusive Vac-Con distributors and are trained in the selling, servicing and maintenance of Vac-Con equipment. Each dealer is required to fulfill specific facility and department (service, sales, parts and marketing) requirements to ensure exceptional customer service. Vac-Con's internal sales team consists of: National Sales Manager, Sales Administrator Supervisor, Sales Administrative Support, Inside Sales Manager, Chassis Sales/Logistic Specialist, Marketing Manager, Multimedia/Graphics Marketing Specialist. Internal Sales Support: South Regional Sales Manager, Northeast Regional Sales Manager, Southwest Regional Sales Manager, West Regional Sales Manager, two product demonstrators and a Recycler Product Specialist	*
26	Dealer network or other distribution methods.	Vac-Con's dealer network functions as the outward facing sales arm of the Vac-Con business. Their dealers are contractually exclusive Vac-Con distributors and are trained in the selling, servicing and maintenance of Vac-Con equipment. Each dealer is required to fulfill specific facility and department (service, sales, parts and marketing) requirements to ensure exceptional customer service. See attached detailed Dealer Network Map and Dealer Location Chart	*
27	Service force.	Vac-Con and Vector maintain teams of trained service and parts departments at the headquarters in Green Cove Springs, Florida and Milwaukee, Wisconsin. Vac-Con and Vector combined employ 6 regional sales managers, 4 product specialists/demonstrators, and 7 service office staff to provide service support to North America. The Vac-Con and Vector direct service team is comprised of 7 service technicians, while the parts and shipping department employs 12 representatives to fulfill parts orders to all dealers. Vac-Con's dealer network provides coverage to all 50 states with 35 exclusive dealerships. Each dealership has a team of service representation and office support to facilitate and process service and parts to end-users. In addition to factory-provided support, Vac-Con dealers are required to maintain service and repair facilities. Dealer parts departments are expected to maintain an inventory of parts for timely fulfillment. Depending on the territory and dealer size, dealers employ between 2 to 15 associates for each department – sales, service, and parts. See the attached dealer listing with the amount of direct service techs at each location.	*
28	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	The Member or dealer will contact a DuCo team member (Contract Administrator) for initial information, contract questions and quotations. DuCo will provide the customer/dealer with a quotation meeting the Sourcewell Contract requirements, terms, and conditions. The member will issue a Purchase Order directly to Vac-Con. Vac-Con will build the customer equipment, will ship the order to the local dealer for pre-delivery inspection and test. The local dealer will then deliver the unit, train the Member personnel and Vac-Con will invoice the item/s to the Member. The dealer will receive the proceeds of the sale in their respective territory. This will encourage their contract participation. In the case where a dealer owns a stock unit that is to be sold to the member, MJ DuBois will provide the Member a letter authorizing the dealer to receive the Purchase Order directly. This will allow accuracy in the required sales reporting when a dealer receives a PO directly. MJ DuBois and her DuCo team will be the single source "quarterback" for the Sourcewell Contract sales and will also report the sales to Sourcewell as required.	*

29	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Any Sourcewell Member having need for customer service is encouraged to communicate directly with their local dealer. Vac-Con dealers are required to maintain an inventory of parts to quickly service customer needs. Vac-Con also requires dealers to have factory trained service staff to handle the customer's service needs. Vac-Con expects our dealer partners to address warranty, service, and parts issues immediately, ensuring a corrective response or action within 12 to 24 hours. Vac-Con service teams are available 24/7 to assist with troubleshooting and repair needs with a case closure goal of 5 days or less for those instances that require intervention from the factory.	*
30	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	A critical part of the Vac-Con mission is to provide innovative vacuum and high-pressure water cleaning solutions that deliver superior performance in municipal markets. As a US manufacturer with the vast majority of Vac-Con sales are generated from municipal customers in the United States, Vac-Con is committed to providing products, service, and parts to this specific market segment. The exclusive dealer network will help them to facilitate the necessary steps and procedures to procure and fulfill orders and provide service and parts support in each of their designated territories.	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Vac-Con is committed to designing, supporting, and manufacturing innovative and reliable products for their customers across the world. With two highly capable dealerships providing coverage to the customers of Canada, as well as Vac-Con's existing presence and relationships, Vac-Con is confident in producing sales and support for this market. Two dedicated regional sales managers employed by Vac-Con provide additional support for all sales, service, and parts functions in the Canadian territories, in addition to the company support provided by the inside sales office at Vac-Con.	*
32	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Vac-Con does not expect difficulties in providing exceptional levels of sales and service in any geographic areas of the US or Canada.	*
33	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Vac-Con expects to fully service all entity sectors that Sourcewell Members represent.	*
34	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There will be no restrictions in sales, service and support to Hawaii, Alaska and in US Territories other than the expense and time allowance for shipping. All quotations will show the extra costs involved prior to a Member issuing a Purchase Order so there are no surprise fees after the sales.	*

Table 7: Marketing Plan

Line Item	Question	Response *
35	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Vac-Con will train all their internal and dealers' sales force with the assistance of the DuCo team, Contract Administrator, and make use of Sourcewell's available employees and extensive collection of vendor support materials. This will be accomplished both by group sales meetings and one-on-one virtual meetings. DuCo has been training dealerships and manufacturers in marketing and sales of Sourcewell Contracts for over 13 years with an abundance of success with many manufacturers. Vac-Con takes an aggressive approach to marketing Sourcewell. Vac-Con includes the Sourcewell Logos in their product brochures (see attached example) and on their website (see attached screen shot) that links to Vac-Con's Sourcewell Contract landing page. Vac-Con wants their customers to immediately know that they are a proud holder of this exclusive contract and that they can take advantage of this contract whether they are already a member or would like to become a member. Vac-Con will also include Sourcewell graphics banners at trade shows to further market their participation. To further ensure that Vac-Con is fully marketing the value of Sourcewell, they encourage Vac-Con salespeople and their dealer sales representatives to attend regional Sourcewell training sessions as well as utilize the assigned Vendor Support Manager to assist in answering questions for Members interested in learning more about the value of the Sourcewell procurement process.
36	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Vac-Con has a comprehensive digital marketing strategy that engages and interacts with dealers, current customers, and potential customers. The goal of Vac-Con's digital marketing initiatives is to drive brand awareness and generate leads, as well as increase traffic to their website. Currently, Vac-Con markets through various social media platforms including Facebook, LinkedIn, and Instagram. Vac-Con's most comprehensive digital marketing strategy is their LinkedIn program. In addition to distributing relevant, engaging content on a consistent basis, they utilize a digital marketing agency to help them reach hundreds of decision makers at municipalities, counties, and government agencies each week. LinkedIn offers a professional setting where Vac-Con is able to directly communicate with decision-makers and promote their products in a helpful and tactful manner. Vac-Con utilizes a digital marketing agency to assist with a comprehensive SEO program. Their SEO program targets industry keywords to help drive traffic to their websites. Vac-Con's focus remains on their product categories and specific applications such as combination machines, hydro-vacs, sewer cleaning, and hydro-excavation. Vac-Con measures their success with the SEO program through annual website traffic increases and qualified leads generated through the website and web-based applications. Year-over-year, Vac-Con has exceeded their SEO goals and continue to evolve the program to increase our reach. Vac-Con actively distributes communications through an email marketing program. The Vac-Con email marketing program is managed by the internal marketing team and reaches over 2,000 dealers and customers. Communications are scheduled on a monthly basis, and consist of new product, program and company updates. Vac-Con measures the success of email marketing campaigns by open and click-through rates and qualified leads generated. Vac-Con continues to add new recipients in both dealer and end-user categories each month through various platforms including the website, social media, and in-person events.
37	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	The Sourcewell marketing model has been an effective and impactful strategy for the Vac-Con business, and is proven by the growth of Sourcewell Contract Sales over the years. Vac-Con representation has made it a priority to collaborate with the Sourcewell employees that facilitate their existing contract. The priority of Vac-Con to ensure longevity and success is service-related, and the Sourcewell team understands this strategy. Vac-Con expects Sourcewell to continue with a presence at trade shows, Getting to Know You events, and Sourcewell University events. Sourcewell has stepped up to the plate in planning education and information Webinars when travel has not been available. Vac-Con is firmly committed to the Sourcewell contract buying concept and agree that it is the way of the future. Vac-Con has created a session at their National Dealer Meetings dedicated solely to Sourcewell sales education and training. These sessions include how to properly sell using the Sourcewell contract, question and answer periods, and testimonials from dealers who have had great success. Vac-Con has utilized the flexibility that Sourcewell contracts offer, and it has become common knowledge for most of the manufacturer' dealers to lead the buying process with this contract. Vac-Con has sent senior management representatives annually to the H2O Conference. Vac-Con has also agreed to subsidize the contract fees to make the Sourcewell contract even more attractive to their respective dealer sales forces. Vac-Con's Contract sales have grown over the years, and this is a testament of Sourcewell and Vac-Con's commitment to the same goal "to offer the best products, service and quantity discounts in support of our customers/members."
38	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	The products represented in this response do not lend themselves to E-Procurement. All of the products are "made to order" and have an extreme amount of variables.

Table 8: Value-Added Attributes

Line Item	Question	Response *
39	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Vac-Con offers several training components, free of charge, to assist operators with a better understanding of their equipment for operations and maintenance. An online training portal hosted on the Vac-Con website provides a basic overview of truck models and their functions. Student comprehension is proven by quizzes at the end of each course. Once a student has successfully completed a course, Vac-Con distributes a certificate of completion. Customer service, parts, sales and marketing departments were involved in making the portal informative and thorough. This online training is complete with online videos that guide the course curriculum and user experience. In addition to online training, Vac-Con dealers are equipped to provide hands-on-training at the in-service of the unit and beyond. All new unit deliveries are made available with hands-on training. Additional training needs can be scheduled with the dealership.

40	Describe any technological advances that your proposed products or services offer.	Aeroboost with Quiet Drive – The Vac-Con Aeroboost 3-stage fan (patent pending) with Quiet Drive fan system is a one-of-a-kind upgrade hydrostatic and auxiliary drive system that operates the vacuum and water functions, lowers noise emissions, and substantially reduces overall fuel consumption without sacrificing power. The Aeroboost fan itself better balances airflow, resulting in less turbulence and more power. Titan – The Vac-Con Titan Combination Machine is a premium unit that boasts several impressive features and components offered only by Vac-Con. The Aeroboost Fan and Quiet Drive system enhance power by reducing airflow turbulence, noise emissions, and fuel consumption. An enhanced cyclonic separator optimizes efficiency and filtration, while the Omnibus Precision Power CANbus system enhances usability and efficiency. Omnibus Precision Power – The OPP system by Vac-Con is a CANbus system designed to enhance operator usability and efficiency. OPP gives the operator control over all vacuum, water, and engine functions at a centralized control panel where the operator spend the most time – at the front of the unit. This coordination of systems allows you to use as much power as is needed, saving time and fuel while delivering precise movements of the hydraulic components. ReelSmart Hose Control System: The ReelSmart technology brings hose reel automation to Vac-Con sewer cleaners with a computerized command controller, up to 30 jobs can be recorded and stored for future use. The pay-out footage, job locations and special instructions can be recalled and used for later use. ReelSmart handles all hose reel pay-out and roll in functions, automatically. This means less physical work for the operator and more efficiency and productivity at the job-site. The customer can record on a USB drive or maintain a daily log with its MS-Excel data dump. This new technology is available in English, Spanish and French.	*
41	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Vac-Con manufacturing focuses on waste and environmental protection regulations in their day-to-day processes. Pursuant to the Department of Environmental Protection, Vac-Con is listed as a Low Quantity Waste Generator which is an ongoing key result area for the company. Vac-Con implements a full campus recycling program for cardboard and scrap metal. In addition, paint waste is minimized through a distillation process that allows the company to remain a Low Quantity Waste Generator. Vac-Con products themselves are designed to be a proponent of environmental protection and maintenance. Their machines ensure that proper sanitation and hygiene standards are met in communities across the world. The Titan combination machine class also boasts impressive reductions such as 44% fuel savings and 8% decrease in noise pollution as compared to other combination machines. The Vac-Con Recycler combination machine allows for a substantial savings in water usage, decreasing the use of freshwater by approximately 73% or more based on average unit operations.	*
42	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	John Deere performance certification 1/19/2018 see attached John Deere performance certification 11/4/2016 see attached TigerFlex hose manufacturing Certification SAE J516 Standards	*
43	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	Most of the local dealers that will be involved in this process are SBE, MBE, WMBE or Veteran owned businesses. The actual participation of each will be dictated by the customer's delivery area. That actual percentage of SBE, MBE, WMBE or Veteran owned business information will be provided to the customer upon request prior to the order being placed. Vac-Con is also utilizing a Small Woman Owned Business, DuCo, LLC, to administer any awarded Sourcewell Contract. Vac-Con is committed to hiring Veterans and Persons with disabilities in their hiring practices. Vac-Con has many veterans currently employed. Vac-Con partners with Veteran organizations as well as the Florida Department of Rehabilitative Services when recruiting for all positions.	*
44	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	As a company, Vac-Con is 100% employee-owned through an ESOP facilitated by their parent company, Holden Industries, Inc. This unique characteristic of ownership allows for every employee to have a significant impact on daily operations, product development, and company value. Vac-Con employee/owners are driven to provide the best solutions in the industry as their reputation and ownership relies on it, unlike competitors that are publicly traded or privately owned. Aeroboost – The Aeroboost 3-Stage Fan (patent pending) and Quiet Drive system is the most unique and impressive fan system on the market. Vac-Con has always been a champion of fan systems and is renowned in the industry for their ability to design and manufacture the most powerful and effective fans available. The Aeroboost is their most engineered fan that boasts 44% fuel savings, 43% decrease in vacuum system operating RPM, 25% increase in airflow, 16-30% more horsepower, 8% decrease in noise pollution, and 5% increase in overall vacuum pressure. Titan – the Titan combination machine is the new standard in combination units and boasts impressive, Vac-Con exclusive components such as the Aeroboost fan and quiet drive system, upgraded filtration, and the Omnibus Precision Power control system. Comprehensive Portfolio – A unique feature that sets Vac-Con apart is that they offer a comprehensive portfolio in combination, hydro-excavation, and jetting machines. Their units are available as skid, trailer, and truck-mounted configurations with various optional components to build these systems out to fit any customer application. Vac-Con is considered to be a custom-manufacturer, allowing each unit to be configured to meet the customer's needs best. Dual Engine – Vac-Con is the only manufacturer to offer a dual engine combination machine. The dual engine machine makes cleaning sewers a simplified process, while offering reliability and safety. The 2-engine design provides independent control of the vacuum and water systems. This efficient design allows the chassis engine to drive the 3-stage fan or positive displacement blower vacuum system, saving fuel and general wear and tear in the long run.	*

Table 9A: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
45	Do your warranties cover all products, parts, and labor?	Each new Vac-Con unit is backed by a factory warranty for defects and workmanship for one year. Longer factory warranty periods are in place for fans, auxiliary engine water pump drive components, debris tank, and water tanks. These warranties cover all products, parts and labor for maternal defect and workmanship. Extended multiple year warranties are available to purchase at a "pass through" price for these OEM components when the original purchase of the machine is made.	*
46	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	There are no usage restrictions imposed by Vac-Con. The warranties are based on time from acceptance by the customer and not hours of use of components.	*
47	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	The warranty coverage will be reviewed on a case by case basis with the customer's local dealer. Travel time and mileage may be considered to be covered under warranty under extreme circumstances. Typically the customer would take their unit in to the local dealer to perform warranty repairs.	*
48	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	There are no geographic locations that can not be served. The exclusive Vac-Con dealerships and vendor facilities will assist with maintenance and service required of all Vac-Con units within their sales territories. Vac-Con is capable of providing technical support and parts to customers directly if their dealer is beyond their "reach". This type of warranty support must be factory authorized prior to work on the unit. The customer would simply call a Vac-Con Warranty Specialist, communicate the issue of concern and receive a written Statement of Warranty Work, return any defective parts required to be returned and can be issued a labor credit at the current dealer warranty labor rate that they may use to purchase replacement parts in the future.	*
49	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Purchased components will be covered by the warranty applicable by the Original Equipment Manufacturer of that component. Vac-Con will assist with coordinating with these entities to service a unit, but the following items would be eligible for their own OEM warranty: Auxiliary engines, water pumps, positive displacement blowers, chassis components and engines. Vac-Con's OEM partners have dealer representatives throughout the United States and Canada. Examples of these OEM's are: John Deere, Kubota, Freightliner etc.	*
50	What are your proposed exchange and return programs and policies?	Because each unit is built to order, there is no set exchange or return policy.	*
51	Describe any service contract options for the items included in your proposal.	Customers that outsource their warranty, service or repair work on their equipment may contact the local servicing dealer. Each dealer is independently owned and employs dedicated parts and service personnel. Vac-Con's dealers have been specifically chosen to represent their products based on their sustained financial stability, ability to provide superior product support both before and after the sale. It is important to Vac-Con that all of their dealers have developed a strong trust and commitment with their local customers. All Vac-Con dealers have their own in-house maintenance facilities along with road-side mobile service repair. Each local dealer will have the capability to provide service contracts and do so regularly. These service contracts are dictated by case by case customer relationships. Vac-Con does not offer service contract options directly to their end users. Vac-Con offers extended warranties and offers pass-through extended warranties on chassis.	*

Table 9B: Performance Standards or Guarantees

Describe in detail your performance standards or guarantees, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your performance materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
52	Describe any performance standards or guarantees that apply to your services	Vac-Con guarantees all product warranties ensuring component workmanship and durability. These warranties can be found in the warranties section of the units manual. All Vac-Con units undergo a thorough factory inspection, and unit burn-in prior to delivery to the dealer and end-user. This process ensures accurate operations of each component and system as specified by the order build sheet. All Vac-Con units are built with the best products available including outsourced components that are sourced through a selective purchasing process by expert purchasing, engineering, and production teams. Each Vac-Con unit is guaranteed to meet customer specified requirements regarding vacuum capabilities, water systems, capacity, weight, and dimensions. Vac-Con provides 24-hour technical service support through their factory service team. All Vac-Con units are guaranteed support by both local Vac-Con representation and the factory service team. Service inquiries will receive a response within 12 to 24 hours of first contact either by local representation (dealer) or a Vac-Con representative. In-stock parts are guaranteed to ship within 48 hours of order submittal.
53	Describe any service standards or guarantees that apply to your services (policies, metrics, KPIs, etc.)	One-Touch Customer Support backs Every Vac-Con® Vac-Con®'s part tracking software ensures that they have in inventory all the parts customers and dealers need when they need them. Vac-Con has a dedicated service facility for all warranty work, local repairs, and refurbishing work. One-Touch Customer Support gives you: 26,000 square foot service department, Training center with expert instructors, 24/7 real person support help line, Over \$5 million in parts inventory, and 24-hour parts shipment turnaround. Vac-Con's customers can expect to receive either dealer or in house service contact within 24 hours of notice. Vac-Con has a commitment to service with quality after the initial sale and including any followup sales. Vac-Con's repeat customers speak to their service/performance standards as 85% of their sales are repeat customers.

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
54	Describe your payment terms and accepted payment methods?	Payment terms are net 30 days unless otherwise arranged prior to purchase on a case-by case basis.
55	Describe any leasing or financing options available for use by educational or governmental entities.	Vac-Con does utilize municipal and non-profit leasing through third party vendors if there is Member interest. Vac-Con does not quote rates or terms for leasing, however it should be known to Members that we have this service available to them. Vac-Con will work with other Sourcewell Awarded Vendors, such as NCL, or any leasing agency of the Member's choice.
56	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	Vac-Con will use a standard quote document to price each item for Sourcewell Members. Example attached.
57	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Vac-Con will not accept the P-card for payment. The typical transaction size does not lend itself to this process. Some Vac-Con dealers will allow parts, service, and dealer inventory to be paid for by P-Cards. Each individual dealer will be receiving payments directly for these items, accepting P-card procurement will be at their discretion. Many dealers do accept this method without additional fees. Some dealers have limitations on the amount that can be processed.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
58	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Vac-Con's offer is a percentage discount from the manufacturer list price to Sourcewell Members on all of the items being proposed in this offer. Vac-Con's discount will be based on a percentage off of the base model unit. Vac-Con mounts most of their units on commercial truck chassis (except for the trailer mounted units). In order to provide the customer with convenience and the best pricing available, Vac-Con will provide the truck chassis with no profit associated or at a pass-through price to the Member. This gives the Member the ability to utilize quantity discounts that are offered by the chassis manufacturers to Vac-Con. Vac-Con purchases "pool truck chassis" at substantial quantity discounts. Vac-Con will also allow the customer to supply their own chassis in which to mount the body.

59	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Vac-Con is offering a 10% discount off base units within the following categories: Dual Engine Combination Sewer Cleaners, Single Engine Combination Sewer Cleaners, Dual Titan Sewer Cleaners, Single Titan Sewer Cleaners, XCavator hydro-excavating models, MXT hydro-excavating models, Hydrovac hydro-excavating models, and all refurbishment prices. Vac-Con is offering a 5% discount off base unit for the following models: HotShot sewer jetters, 3 yd sewer combo units, Vac Pumper models, VecJet jetters, Neptune sewer combo unit, Mudslinger hydro-excavation units and VecLoader industrial vacuum trailers. Vac-Con is offering an 5% accessory part discount. To qualify for this discount: 1) The Member is only buying Accessories parts and not an entire unit, 2) The Member Purchase Order must be in excess of \$15,000.00. All Member Purchase Orders that qualify, must have their SW Member Number Clearly stated on the Purchase Order.	*
60	Describe any quantity or volume discounts or rebate programs that you offer.	Vac-Con's will offer additional discounts for volume purchases. There will be an additional 3% discount off of the base unit discounted price for a single purchase order for 4 or more units. Vac-Con does not offer any rebate programs at this time.	*
61	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	It is Vac-Con's intention to cover all items available on our commercial price lists. Vac-Con does realize from time to time there may be individual requirements that will not be listed. Vac-Con will provide any items "specific" to Sourcewell Members needs that we are able to. The pricing for such items will be priced at 20% above cost. Prior to accepting an order with Open Market or Sourced Goods from a Sourcewell Member, Vac-Con will discuss the availability of specific requests and price the item. Any documentation of cost that we can provide for these items will be presented on an individual basis.	*
62	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	There are several costs not included in the pricing submitted in this proposal. These costs are listed below: Freight and Delivery: Freight costs will be pre-paid and added to the Members Quote and Invoice. Small items will be, in most cases, delivered by UPS. Other freight carriers may be utilized in shipments, i.e. Federal Express, DHL and common carrier for truck freight. The actual cost of shipment will be passed through to the customer. Vac-Con will not mark up this item for profit. Minimal handling fees may be added where special packaging is required. The Member will be notified of these charges if applicable prior to order placement. Federal Excise Tax: Vac-Con is required by law to collect Federal Excise Tax on any truck mounted unit rated above 33,000 GVW. This tax will be added to the customer invoice as a separate line item. Vac-Con will pay this tax directly to the Internal Revenue Service. The rate of tax is calculated at 12%. Most municipal and non-profit entities are exempt from this tax. If an exemption certificate is provided, Vac-Con will not be required to collect this tax. Mounting Fee: Mounting fees cover the cost of the mounting of the body on the desired truck chassis or trailer. Federally Mandated Items: The cost of any federally mandated items will be passed on to the Member. The current pricing includes any federally mandated items that are mandated at the time of this proposal. Should there be a Federal Mandate after the date of this proposal, any cost incurred to meet the requirements of this mandate will be passed on to the member. Any costs applicable will be provided to the Member prior to any Purchase Order being issued. This fee would typically be charged to meet any future EPA standards that may arise. An example of such costs would be in meeting Federal Emission Standards. Local Dealer Pre-Delivery Inspection, On Site Training, and Local Delivery Fees: These costs are charged by local dealers to inspect, test, in service the unit, local extended delivery and follow up training. These costs are a pass through cost to the member from the local dealer.	*
63	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	All freight charges are pre-paid and added to the Member quotation for convenience. Members always have the choice of picking up the units at the factory or retain a 3rd party of their choice to deliver the equipment. The freight charges Vac-Con charges are at a pass-through price. Vac-Con has negotiated quantity-discounted shipping rates and will pass those discounts on to the Members. Most offered items are custom built to customer specification. Anticipated delivery of items ordered on a stock chassis or customer supplied chassis is expected to be 45-90 days after receipt of order or customer chassis. Anticipated delivery of an item ordered on a "special order" chassis is expected to be 120-180 days after receipt of order; however, this time can vary greatly depending upon chassis manufacturer back log. Delivery of truck mounted units will be pre-paid and added to Member Quotation and Invoice. Both "Drive-A-Way" service and common carrier service will be used. The actual cost of the service will be passed through to the customer.	*

64	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	The shipping and delivery charges for Canada, Alaska and Hawaii and any other off shore location are the same as the previously stated delivery programs for the contiguous US. The shipping charges to the port location will be calculated in the same manner. If the customer wishes Vac-Con to deliver via ocean transport, they will pass on the negotiated shipping rates that they will pay to the ocean transport carrier to the Member. It has been Vac-Con's experience that the customers in these locations usually have their own negotiated rates with shipping carriers. If this is the case, Vac-Con will provide the customer shipping to their desired port and provide the customer with the appropriate documentation required. Vac-Con strives to provide the equipment as customer specified and to their satisfaction upon delivery.	*
65	Describe any unique distribution and/or delivery methods or options offered in your proposal.	As stated above, Vac-Con does pass on negotiated, competitively bid freight pricing to their customers. Most of Vac-Con's Dealers do have units in stock and Member's can purchase those units to enhance delivery times and in some cases better prices for any previous year's inventory.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
66	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Vac-Con fully recognizes the value of the national Soucewell Contract and a such gives the best discounts available to Sourcewell Members

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
67	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	Due to the unique nature of our proposed contract representation, Vac-Con builds in an automatic audit process. DuCo, LLC, being the proposed Contract Administrator and single source for Sourcewell quotations, allows for this self-audit process. Vac-Con will not have to rely on multiple reports from individual dealerships for an accurate accounting of sales. DuCo will have the ability to account for every sale at time of order. There is no after-the-fact gathering of information. DuCo prepares the quotation for the Member under the Contract guidelines. Every Sourcewell Member quotation delineates the Sourcewell Contract Number. When a Purchase Order is received, Vac-Con will require the Purchase Order to reference the contract number. This process makes it clear for all personnel to recognize that it is a Sourcewell contract sale. The order, when received, is booked and accounted for on the Sourcewell sales spreadsheet. This makes the end of quarter reporting complete at the actual end of quarter. As a secondary check, when Vac-Con receives a payment for a unit, Vac-Con will verify the contract used in its purchase. This ensures the correct accounting for the sale on a second level.	*
68	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Vac-Con sales are maintained in a comprehensive CRM (Salesforce) program that allows for the sales and marketing teams to determine how many units are sold through the Sourcewell contract and additional metrics regarding these sales. The Vac-Con sales team will track and report on quarterly sales through the contract to both internal and external sales teams to evaluate performance of both dealers and regional sales representatives. Vac-Con actively promotes the use of the Sourcewell Contract, and awards dealers on an annual basis for their activity with the contract. Vac-Con values the ability to service the Sourcewell Members with their products. In order for them to ensure they are providing a product that Sourcewell Members want, Vac-Con evaluates these sales, quarterly and annually, to ensure growth. Vac-Con will respond accordingly to specific regional performance through dealer training as well as participation in Sourcewell training classes. Vac-Con expects to increase sales each year. Vac-Con operates with an annual marketing plan to ensure that they maximize their outreach to potential customers, including Sourcewell Members in order to achieve their goal.	*
69	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Vac-Con proposes an administrative fee of 1%. The fee will be calculated on the Member price less Chassis cost, sales tax (if applicable), and dealer prep/delivery fees.	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
-----------	----------	------------

70	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Vac-Con Combination Jet/Vac Machines Dual and single engine combination machines with a range of offerings including 2 and 3-stage centrifugal compressors (fans) or various positive displacement blowers for vacuuming. Water jet systems ranging from 15 gallons per minute to 120 gallons per minute with pressures ranging from 1500PSI to 4000 PSI. These units are available in a range of sizes with debris tanks from 3 cu/yd to 16 cu/yd and water tanks from 200 gallons to 1500 gallons. Vac-Con has many optional features offered which are patented. Recycler combination machine – This combination machine is up-fitted with a recycler component. The recycler allows for debris tank water to be used in lieu of fresh water, greatly reducing overall water usage. This feature conserves water as a “Green Initiative” primarily and allows users to continue to work in areas where water access is limited or not available. The Vac-Con Recycler machines can function as standard combination machines in addition to utilizing the recycler features. Titan Class combination machines – the Titan combination machines feature the Aeroboost 3-stage fan (PATENTED) and offer users an incredible amount of efficiency. The dual engine Titan configuration results in a 44% fuel savings, 43% decrease in vacuum system operating RPM, 25% increase in airflow, 16-30% more horsepower, 8% decrease in noise pollution, and 5% increase in overall vacuum pressure (lift). These statistics result in a machine that offers high performance while being very environmentally friendly in regard to noise and carbon footprint. Neptune Trailer-Mounted Unit – the Neptune is a combination jet/vac machine that is either trailer or skid mounted. It is offered with either a 535 or 845 gallon debris tank and 225 or 325 gallons of water tank capacity. This unit is a portable and powerful option in a smaller footprint ideal for schools, colleges and small local governments. Vac-Con Jet ONLY Machines VJ375 – a single axle trailer-mounted unit with 375 gallons of water VJ750 – a tandem axle trailer-mounted unit with 750 gallons of water VJT1500 – a truck-mounted, enclosed jetter unit with 1,500 gallons of water Hot Shot – The Hotshot is a truck chassis mounted machine that offers up to 2,500 gallons of water capacity and is ideal for large sewer and pipeline jetting and cleaning. Vac-Con Hydro-Excavation Machines Mudslinger MS – a trailer or skid-mounted hydro-excavation unit available in 535 or 845 gallon debris tank and 225 or 325 gallon water capacity. The Mudslinger MS is built to function as a standalone unit or as a complement to additional excavation equipment. Mudslinger MST – The MST is available on an F650 (26,000lb) or larger chassis and is offered in 535 or 845 gallon debris tank and 225 or 325 gallon water capacity. The MST offers the Mudslinger trailer unit on a convenient small footprint chassis configuration. Mudslinger MXT – The MXT is a simple, chassis-mounted unit that offers the powerful Vac-Con system in an easy-to-use configuration. Mudslinger CXT – The CXT is a chassis-mounted hydro-excavation machine available from 3 to 16 yard debris tank and 800 to 1,300 gallons of water. This is the legacy Vac-Con hydro-excavation machine. Mudslinger EXT – The EXT is offered in a 12 yard debris tank and 1,500 gallons of water. This unit features an enclosed operator station, and insulated water system and components. The EXT is designed for harsh weather and below freezing environment excavation. Vector Industrial Vacuum units Industrial vacuum units – high vacuum, high volume industrial material conveyors offering a wide variety of products suited for heavy duty industrial cleaning and recovery applications. Noted for their simple rugged durability, Vector machines can be found around the world on the job in shipyards, mines, mills, manufacturing plants, oil fields, gas well sites, refineries, rail yards, general construction sites, infrastructure remediation sites, hazardous material recovery and demolition operations, commercial roofing, abrasives and coatings industries, and others. Available in trailer mounted units and skid mounted units. Vacuum Pumper units Truck mounted vacuum units available from 1500 gallon tank capacity to 5000 gallon tank capacity for pumping large quantities of liquid waste. These trucks can be used stand alone or in synchrony with any other Vac-Con vacuuming equipment. Refurbishment Packages Refurbishment packages on several different levels for already owned Vac-Con units. These refurbishment packages, Bronze, Silver, and Gold, can help the customer over-haul their Vac-Con unit when budgets don't permit replacement units. Refurbishments take place at the factory in Green Cove Springs, Florida Accessories, wear parts and supplies - A full catalog of accessories, camera solutions, pumps, nozzles, cutters and common wear items are offered in this response. Dealer stock, demonstrator, and reconditioned units are offered in this response. These items offer solutions for budget challenged members and for those who will need immediate delivery without having to wait for new build lead time.
----	---	--

71	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	The Vac-Con "Vac Pumper" models fit within the grease trap cleaning equipment, portable toilet servicing equipment, Sewage pumping station maintenance equipment. The Vector VecLoader offering fits within Industrial Vacuum Equipment, Hazardous Materials Collection Equipment, HEPA filtration equipment categories.	*
----	--	---	---

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
72	Sewer vacuums or combination sewer cleaners	☒ Yes ☐ No	Models offered in this category: Dual Combo, Single Combo, Dual Titan, Single Titan, 3 yard Combo, Neptune trailer.	*
73	Hydro or air excavation equipment	☒ Yes ☐ No	Models offered in this category: XCavator, MXT (municipal hydro-excavator), Hydrovac (offers air and water excavation), Mudslinger trailer excavator.	*
74	Jetters and rodders	☒ Yes ☐ No	Models offered in this category: HotShot high pressure sewer jet, Vec Jet high pressure sewer trailer.	*
75	Dewatering, mud, trash, and centrifugal pumps	☒ Yes ☐ No	These items are offered within this response.	*
76	Pumps used in lift stations, sewage treatment, water treatment, or water collection facilities	☒ Yes ☐ No	Models offered in this category: Vac Pumper	*
77	Accessories, supplies and replacement or wear parts related to the offerings above.	☒ Yes ☐ No	All of these items are offered within this response with a 5% discount.	

Table 15: Industry Specific Questions

Line Item	Question	Response *
78	Describe any product or equipment features that improve operator safety.	Operator safety is at the core of Vac-Con products. Vac-Con integrates a range of components and product features that ensure operators can work with and around these machines in the safest possible manner. - Power Level Wind Guide – an automated component that brings jetting hose out of the manhole, limiting the need for an operator to reach in or around the manhole - Outrigger Leg Magnet – A magnetic leg on the hose reel that assists with lifting service access point lids saving possible operator injury lifting heavy objects. - Grate Lifting Hook System – utilizes the boom to remove storm drain gates saving possible operator injury lifting heavy objects. - Wireless Remote with E-Stop – allows for wireless operation of the unit reducing the need for the operator to manually handle equipment. An E-Stop ensures a way to quickly terminate all functions in case of an emergency - Titan Quiet Drive – The Quiet Drive reduces noise pollution by 8%, allowing operators the ability to hear over the machine for directions and warnings - Water Tank Location – lowest center of gravity in the industry preventing truck top-heavy roll-over The operation of Vac-Con units is performed at the front of the unit with hardwired controls or wireless remotes. Operator safety is better secured with the entirety of the truck between the operator and oncoming traffic. The remote transfer case engagement is located at the front hose reel and allows for operators to control functions typically managed inside the cab. This feature is designed to start and stop the engine and engage and disengage the transfer case from the exterior front of the unit. Operator footsteps and movements in and out of the cab are mitigated, reducing the chance of injury. In addition, Allison Auto Neutral and Range Inhibit Functions are used for safety on this component.
79	Describe any product or equipment innovations that increase uptime and operator productivity.	The Vac-Con Recycler is a combination machine outfitted with a recycling component. This system allows for users to use water already in the pipeline or recycled water from the debris tank to continue operations. This function keeps an operator on the job all day without the need to refill tanks running 50 GPM @ 3,000 PSI. The time given back to a job by reducing the need to refill water capacity increase operator efficiency. The Omnibus Precision Power Control System gives the operator control authority over all vacuum, water and engine functions, and at a centralized control panel, right where the operator is working. This coordination of systems allows the operator to use as much power as is needed, saving time and fuel while allowing precise movements of the hydraulic components. This system eliminates over 250 electrical connections and over one mile of wire in a typical Vac-Con build. The Remote Transfer Case Engagement is designed to allow operators to start and stop the engine and disengage the transfer case from the front of the unit. Located on the front hose reel, this feature will limit operator footsteps to and from the cab of the unit and allow a fast job completion. ReelSmart Hose Control System: The ReelSmart technology brings hose reel automation to Vac-Con sewer cleaners. With a computerized command controller, up to 30 jobs can be recorded and stored for future use. The pay-out footage, job locations and special instructions can be recalled used for later use. ReelSmart handles all hose reel pay-out and roll in functions, automatically. This means less physical work for the operator and more efficiency and productivity at the job-site. The customer can record on a USB drive or maintain a daily log with its MS-Excel data dump. This new technology is available in English, Spanish and French.

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 80. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
 3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Pricing](#) - VacCon Sourcewell Pricelist 9_30_2021.zip - Monday September 27, 2021 14:14:14
 - [Financial Strength and Stability](#) - Financial Strength and Authorization Letter.zip - Monday September 27, 2021 14:14:25
 - [Marketing Plan/Samples](#) - dealers and marketing examples.zip - Monday September 27, 2021 14:14:59
 - WMBE/MBE/SBE or Related Certificates (optional)
 - Warranty Information (optional)
 - [Standard Transaction Document Samples](#) - VACCON STANDARD QUOTE EXAMPLE.pdf - Monday September 27, 2021 14:15:19
 - [Upload Additional Document](#) - Performance Certs and Testimonials.zip - Monday September 27, 2021 14:15:36

Addenda, Terms and Conditions**PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE**

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - M.J. DuBois, Contract Administrator, DuCo, LLC

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☒ Yes ☐ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_3_Sewer_Vac_Hydro-Excavation_Pumps_RFP_101221 Thu September 30 2021 03:29 PM	☒	2
Addendum_2_Sewer_Vac_Hydro-Excavation_Pumps_RFP_101221 Fri September 10 2021 02:40 PM	☒	2
Addendum_1_Sewer_Vac_Hydro-Excavation_Pumps_RFP_101221 Thu August 26 2021 05:40 PM	☒	1

Vac-Con #101221-VAC

Pricing for contract #101221-VAC offers Sourcewell participating agencies the following discounts:

- Up to 10% discount off list price, depending upon unit and/or accessory
- In addition to the discount off MSRP, Sourcewell participating entities can also qualify for a volume discount of 3% off of the base unit discounted price for a single purchase order for four or more units



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.9

DATE: March 4, 2025
TO: City Council
FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org
SUBJECT: Second Amendment to Agreement 32300154 with Auto Body International for Light and Medium Duty Paint and Body

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a Second Amendment to an Agreement with Auto Body International in the amount of \$450,000 for a new total amount not to exceed \$825,000 for paint and autobody repairs for City vehicles.

(This item did not originate in Committee since this is a continuation of a previous item approved by the City Council on March 21, 2023.)

BACKGROUND

The Fleet Services Division (Fleet) of the Public Works Department oversees the maintenance and repair of the City’s fleet, consisting of 983 vehicles and equipment valued at over \$54 million. As part of its ongoing fleet management, Fleet requires a contractor to provide as-needed automotive body repairs for City vehicles and equipment. The Fleet shop does not have the costly specialized equipment, such as a frame rack and permitted spray booth, to perform these repairs. Additionally, Fleet staff do not have the specialized training required for painting or automotive body repairs, which are not performed on a routine basis.

During normal operations, vehicles and equipment may sustain body, paint, and frame damage due to collisions, traffic incidents, or other unforeseen events. These damages require professional repairs, including paint, body, and frame work, which are performed by an external vendor under Fleet’s oversight. These services are essential to maintaining the safety, reliability, and functionality of the City’s vehicles and equipment. For the past 27 years, Fleet has relied on a third-party vendor to provide these repairs.

DISCUSSION

On March 21, 2023, City Council approved Agreement 32300154 with Auto Body International for one year, with two one-year extensions, for a total amount not to exceed \$375,000. Since its implementation, approximately 15% of the funds were spent by the end of FY 2022-23, 43% in FY 2023-24, and 39% within the first seven months of FY 2024-25. It is projected that the remaining funds will be fully expended by the end of March 2025. While the agreement includes one final extension through March 31, 2026, additional funding of \$450,000 is being requested.

The table below summarizes the number of repairs and costs by fiscal year:

Period	Number of Repairs	Total Expenses	Average Repair Cost
--------	-------------------	----------------	---------------------

FY 2022-23 (March-June)	17	\$54,914	\$3,230
FY 2023-24	54	\$161,398	\$2,989
FY 2024-25 (July-Dec)	33	\$146,690	\$4,445
Total	104	\$363,002	\$3,490

Fleet manages all autobody repairs through Auto Body International for all City departments, with repair costs allocated to the respective departments. Due to rising average repair costs per vehicle and fluctuations in repair needs since FY 22/23, Fleet recommends increasing the contract capacity by \$450,000. Based on current information, this increase would help ensure timely repairs for critical service vehicles if needed. While the City Council approved budget will dictate actual spending and not the contract capacity, the inability to repair critical public service vehicles, such as public safety vehicles, just because of a lack of contract capacity and not a budget issue is an administrative limitation that Fleet staff does not recommend.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The total cost for this Amendment shall not exceed \$450,000 with Auto Body International through March 31, 2026. There are sufficient funds in the Fleet Services Fund, 741, for Fiscal Year 2024-25. Subsequent fiscal year funding will be requested in the annual budget process. The estimated spending plan per fiscal year is as follows:

Estimated Spending Plan for Light and Medium Duty Paint and Body			
Account Number	FY 2024-25 (Jan - June)	FY 2025-26 (July - March)	TOTAL
7413750-55030	\$ 180,000	\$ 270,000	\$450,000

COMMITTEE OUTCOME

This item did not originate in Committee since this is a continuation of a previous item approved by the City Council on March 21, 2023.

Prepared by: Brian Yanez, Assistant Public Works Director, Jose Arreola, Fleet Services Manager

ATTACHMENTS

1. Agreement 32300154 Second Amendment
2. Original Agreement 32300154 & First Amendment

SECOND AMENDMENT TO TRADE SERVICE AGREEMENT

This Second Amendment (“Second Amendment”) to the Trade Service Agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2025, by and between the City of Oxnard, a municipal corporation (“City”), and Auto Body International, Inc. (“Service Provider”). This Amendment amends the Agreement entered into on March 22, 2023, by City and Service Provider. The Agreement previously has been amended on March 6, 2024, by a First Amendment.

City and Service Provider agree as follows:

1. Pursuant to Section 3.3, the City is exercising its second one year option term. The Agreement will be extended for one additional year beginning on April 1, 2025, through March 31, 2026. The City has no option term remaining pursuant to Section 3.3.
2. The amount in Section 4 of the Agreement is hereby amended to \$825,000.00.
3. The reference to the Schedule of Compensation Exhibit B everywhere it is listed in the Agreement is hereby amended to the Schedule of Compensation Exhibit B-1. The Schedule of Compensation Exhibit B is hereby disincorporated; instead; the Schedule of Compensation Exhibit B-1 is attached hereto and incorporated herein by this reference.
4. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

AUTOBODY INTERNATIONAL, INC.

☐ Luis Mc Arthur, Mayor¹ Date
☐ Jennifer Yates, Purchasing Agent²

 Heriberto Saucedo, President Date

 Heriberto Saucedo, CFO,³ Date

ATTEST:

 Lourdes A. López, City Clerk Date
 (only if Mayor signs)

APPROVED AS TO FORM:

 Stephen M. Fischer, City Date
 Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

SCHEDULE OF COMPENSATION EXHIBIT B-1

LABOR COSTS

Line Item	Vehicle Type	Type of Labor	Quantity	Unit of Measure	Price
1	Light Duty	Body Repair	1	Per Hour	\$60.00
2	Light Duty	Aluminum Body Repair	1	Per Hour	\$74.00
3	Light Duty	Frame Repair	1	Per Hour	\$72.00
4	Light Duty	Glass Repair	1	Per Hour	\$60.00
5	Light Duty	Mechanical Repair	1	Per Hour	\$74.00
6	Light Duty	Paint	1	Per Hour	\$60.00
7	Light Duty	Paint Supplies	1	Per Hour	\$42.00
8	Medium Duty	Body Repair	1	Per Hour	\$62.00
9	Medium Duty	Frame Repair	1	Per Hour	\$74.00
10	Medium Duty	Glass Repair	1	Per Hour	\$62.00
11	Medium Duty	Mechanical Repair	1	Per Hour	\$76.00
12	Medium Duty	Paint	1	Per Hour	\$62.00
13	Medium Duty	Paint Supplies	1	Per Hour	\$44.00

PARTS AND SUPPLIES

Line Item	Product	Specifications	Discount off Manufacturer's Suggested Retail Price
14	OEM Replacement Parts	Domestic, Light Duty	5% Off
15	OEM Replacement Parts	Import, Light Duty	5% Off
16	Aftermarket/Used Replacement Parts	Light Duty	5% Off
17	OEM Replacement Parts	Medium Duty	5% Off
18	Aftermarket / Used Replacement Parts	Medium Duty	5% Off

**TRADE SERVICE AGREEMENT
BETWEEN
THE CITY OF OXNARD AND AUTO BODY INTERNATIONAL, INC.**

By This Trade Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of Auto Body International, Inc. ("SERVICE PROVIDER"), and SERVICE PROVIDER agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and SERVICE PROVIDER may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. Auto Body International, Inc. will provide auto body repair and painting services for fleet vehicles and equipment, to include but not be limited to general body repair, dent repair, component replacement for exterior/interior body components, collision damage repair, glass repair/replacement including windshields, painting all or portions of vehicle bodies, and other repair services.

2. PARTIES.

CITY OF Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

Auto Body International, Inc. ("SERVICE PROVIDER"), a corporation of the State of California, located at 932 East 5th St, Oxnard California 93030

3. TERM OF AGREEMENT: From (Date): 3/22/23 To (Date): 3/22/24

3.1 Time is of the essence in this Agreement.

3.2 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of three (3) years. The CITY in its sole discretion may exercise the optional extension upon 60 days written notice to the SERVICE PROVIDER in accordance with Section 11 of this Agreement. SERVICE PROVIDER shall issue its written consent to the CITY's exercise of the option extension within 10 days of receipt of notice from the CITY. All Notices shall comply with section 20 of this Agreement.

3.3 The CITY shall have the option for (2) two consecutive (1) one-year extensions, in accordance with the scope of work and general terms and conditions of the Trade Services Agreement. Any price increases or decreases shall be negotiated at time of contract extension.

3.4 All services required of SERVICE PROVIDER under this Agreement shall be completed on or before the end of the term of the Agreement.

4. AGREEMENT AMOUNT: \$375,000.00

5. AGREEMENT EXHIBITS: The following documents memorialized below are the only exhibits to this agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, SERVICE PROVIDER's services shall be performed or immediately supervised by the SERVICE PROVIDER's Representative:

CITY Designated Representative:	SERVICE PROVIDER Designated Representative:
Name: Jose Arreola	Name: Heriberto Saucedo
Title: Fleet Services Manager	Title: President/CEO
Phone: (805) 385-8011	Phone: (805) 486-7811
Email: jose.arreola@oxnard.org	Email: abicollision@yahoo.com
Mailing Address (if differs from above): 1060 Pacific Ave, Bldg 2 Oxnard, CA 93030	Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

7.1. This Agreement must first be executed by the SERVICE PROVIDER, after which the Agreement shall be approved as to form by the CITY Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the CITY Clerk.

7.2. A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.3. All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.

7.4 SERVICE PROVIDER shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. SERVICE PROVIDER'S SERVICES.

8.1 SERVICE PROVIDER shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as

"Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. SERVICE PROVIDER hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay SERVICE PROVIDER for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay SERVICE PROVIDER an amount not to exceed the amount that is listed in "Exhibit B." Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within forty-five (45) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within forty-five (45) days after receipt of such invoice, notify the SERVICE PROVIDER of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. SERVICE PROVIDER shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: invoices@oxnard.org.

10.2 Non-Appropriation of Funds. Payments to be made to SERVICE PROVIDER by CITY for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of CITY. In the event CITY does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which CITY appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

10.3 SERVICE PROVIDER's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to SERVICE PROVIDER for anything completed, finished or relating to the Services. CITY's payment shall not constitute nor be deemed a

release of the responsibility and liability of SERVICE PROVIDER for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by CITY for any defect or error in the Services performed by SERVICE PROVIDER and its employees, agents and Subcontracted service providers.

10.4 SERVICE PROVIDER shall provide CITY with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by SERVICE PROVIDER or materials or products provided to CITY by SERVICE PROVIDER, SERVICE PROVIDER shall pay the sales tax. CITY shall not reimburse SERVICE PROVIDER for sales taxes paid by SERVICE PROVIDER.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 3.2 and 3.3, this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard Municipal Code, Article IV, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to SERVICE PROVIDER only for work done by SERVICE PROVIDER up to and including the date of termination of this Agreement unless the termination is for cause, in which event SERVICE PROVIDER need be compensated only to the extent required by law. SERVICE PROVIDER may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' written notice.

14. INDEPENDENT CONTRACTOR

SERVICE PROVIDER is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of SERVICE PROVIDER or any of its employees, except as

stated in this Agreement. SERVICE PROVIDER has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting SERVICE PROVIDER. This Agreement shall not be interpreted to prevent or preclude SERVICE PROVIDER from rendering any services for SERVICE PROVIDER's own account or to any other person or entity as SERVICE PROVIDER in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the SERVICE PROVIDER shall perform for the City. The CITY retains the right to provide general instructions to and observe the SERVICE PROVIDER in the performance of all services done on behalf of the CITY.

SERVICE PROVIDER and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. SERVICE PROVIDER and its employees are not employees of City. SERVICE PROVIDER and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. SERVICE PROVIDER shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.

15. LAWFUL PERFORMANCE.

SERVICE PROVIDER shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. SERVICE PROVIDER, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

SERVICE PROVIDER shall not perform any services for the CITY when the SERVICE PROVIDER is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to SERVICE PROVIDER when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of SERVICE PROVIDER's work by CITY shall not operate as a release of the SERVICE PROVIDER from such standard of care and workmanship.

17. OWNERSHIP OF SERVICE PROVIDER'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by SERVICE PROVIDER in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The SERVICE PROVIDER shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. SERVICE PROVIDER shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and SERVICE PROVIDER shall, upon completion of all work, submit to the CITY all information developed in the course of the SERVICE PROVIDER's services. SERVICE PROVIDER shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. SERVICE PROVIDER shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to SERVICE PROVIDER by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. SERVICE PROVIDER agrees that CITY may make modifications to computer software furnished by SERVICE PROVIDER without infringing SERVICE PROVIDER's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the SERVICE PROVIDER pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. SERVICE PROVIDER may be granted access to information that is exempt from disclosure to the public (Government Code Section 6254 and 6254.16) and may contain "trade secrets"

(see Government Code Section 6254.7(d)) when it is necessary for SERVICE PROVIDER to perform its obligations pursuant to this Agreement. If SERVICE PROVIDER is granted such access to confidential information, SERVICE PROVIDER shall not be considered to be a member of the public as that term is used in Government Code Section 6254.5.

17.6. Disclosure of Information. SERVICE PROVIDER shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to SERVICE PROVIDER by the CITY or other information to which the SERVICE PROVIDER has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

17.7. No Warranty. Other than an obligation upon the CITY to deal in good faith, the CITY makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by SERVICE PROVIDER in reliance on any Confidential Information disclosed under this Agreement.

18. ASSIGNMENT.

This Agreement is for the non-professional services of SERVICE PROVIDER. Any attempt by SERVICE PROVIDER to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. SERVICE PROVIDER's services pursuant to this Agreement shall be provided by the SERVICE PROVIDER's Designated Representative or directly under his/her supervision, and SERVICE PROVIDER shall not assign another to supervise the SERVICE PROVIDER's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement.

20. NOTICES.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by SERVICE PROVIDER shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by SERVICE PROVIDER under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from SERVICE PROVIDER's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 As a separate and independent covenant from SERVICE PROVIDER's obligations under this section, SERVICE PROVIDER shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless CITY, its legislative and advisory bodies, and the CITY's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with SERVICE PROVIDER's performance of this Agreement or SERVICE PROVIDER's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. SERVICE PROVIDER's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

23.2 The duty to defend is a separate and distinct obligation from SERVICE PROVIDER's duty to indemnify. SERVICE PROVIDER shall be obligated to defend in all legal, equitable, administrative, or special proceedings, with counsel approved by the CITY Attorney, immediately upon tender to SERVICE PROVIDER of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An

allegation or determination of negligence or willful misconduct by any of the Indemnitees shall not relieve SERVICE PROVIDER from its separate and distinct obligation to defend the Indemnitees. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if SERVICE PROVIDER asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnitees. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of any of the Indemnitees, SERVICE PROVIDER may submit a claim to CITY for reimbursement of reasonable attorneys' fees and defense costs.

23.3 The review, acceptance or approval of SERVICE PROVIDER's work or work product by any of the Indemnitees shall not affect, relieve or reduce SERVICE PROVIDER's indemnification or defense obligations. SERVICE PROVIDER waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by SERVICE PROVIDER pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The SERVICE PROVIDER's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.4 SERVICE PROVIDER agrees to pay all required taxes on amounts paid to SERVICE PROVIDER under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. SERVICE PROVIDER shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of SERVICE PROVIDER's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. CITY shall have the right to offset against the amount of any compensation due to SERVICE PROVIDER under this Agreement any amount due to CITY from SERVICE PROVIDER as a result of its failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

24. INSURANCE.

SERVICE PROVIDER shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that SERVICE PROVIDER obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. SERVICE PROVIDER shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by SERVICE PROVIDER is a material element of this Agreement. SERVICE PROVIDER'S failure to

maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, SERVICE PROVIDER understands and agrees that if Living Wages are applicable subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement. SERVICE PROVIDER will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to:
<https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the SERVICE PROVIDER.

27. [RESERVED] -

28. [RESERVED] -

29. [RESERVED] -

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the SERVICE PROVIDER. The decision of the CITY's Designated Representative shall be final and conclusive unless SERVICE PROVIDER requests mediation within ten (10) calendar days. Pending final decision of a dispute, the SERVICE PROVIDER shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

CITY shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by SERVICE PROVIDER in preparing its billings to CITY as a condition precedent to any payment to SERVICE PROVIDER; or for other purposes relating to the Agreement. SERVICE PROVIDER will promptly furnish all documents requested by CITY. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit SERVICE PROVIDER for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, SERVICE PROVIDER shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by CITY, whichever occurs later. SERVICE PROVIDER shall maintain all such records in CITY or to promptly reimburse CITY for all reasonable costs incurred in conducting the audit at a location other than in CITY, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. SERVICE PROVIDER shall include a copy of this Section in all contracts with its subcontractors, and SERVICE PROVIDER shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or CITY.

33. ADVERTISING AND PUBLICITY

SERVICE PROVIDER shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

34. NONDISCRIMINATORY EMPLOYMENT.

SERVICE PROVIDER shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. SERVICE PROVIDER understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, SERVICE PROVIDER shall be responsible for such subcontractor's compliance with this Section.

35. FORCE MAJEURE.

Neither the SERVICE PROVIDER nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This

Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. ACKNOWLEDGEMENT.

By signing below, SERVICE PROVIDER acknowledges that it has reviewed the CITY's Trade Services Agreement terms and conditions and insurance requirements and that SERVICE PROVIDER hereby agrees to full compliance.

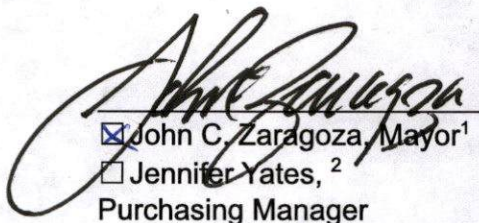
[Signatures on next page]

Agreement No. 32300154

In witness whereof, the Parties have entered into this Agreement on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

[SERVICE PROVIDER]

 3-24-23
☒ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates,²
Purchasing Manager

, [name] , [title] Date

, [name] , [title]³ Date

ATTEST:

Rose Chaparro, CITY Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

Stephen M. Fischer, CITY Date
Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

Agreement No. 32300154

In witness whereof, the Parties have entered into this Agreement on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

AUTO BODY INTERNATIONAL, INC.

Jennifer Yates,¹ Date
Purchasing Agent

Heriberto Saucedo, CEO/President² Date 1-24-23

Heriberto Saucedo, CFO Date 1-24-23

ATTEST:

Rose Chaparro, CITY Clerk Date 3/21/23
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, CITY Date 2/1/23
Attorney (always required)

¹ The City Council must authorize any agreement over \$200,000 annually. The City Manager may authorize any agreement over \$100,000 up to \$200,000 annually. The Purchasing Agent may authorize any agreement up to \$100,000 annually. All agreements shall be executed by the Purchasing Agent.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
 - For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
 - For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
- If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

**TRADE SERVICE AGREEMENT
(CITY of Oxnard and AUTO BODY INTERNATIONAL, INC.)**

SCOPE OF SERVICES

**SCOPE OF WORK
AUTO BODY LIGHT/ MEDIUM DUTY**

The selected proposer will provide body repair and painting to the City of Oxnard on an as needed basis. The proposer must have a minimum of five (5) years recent experience performing similar work/services. The work shall be performed at the proposer's shop unless otherwise agreed to in writing City of Oxnard. Compensation will be based on the prices proposed on the bid form attached as Attachment A.

Body Repair and Painting:

The proposer will provide auto body repair and painting services for fleet vehicles and equipment, to include but not be limited to general body repair, dent repair, component replacement for exterior/interior body components, collision damage repair, glass repair/replacement including windshields, painting all or portions of vehicle bodies, and other repair services. Bent parts are to be straightened and reinforced or replaced if necessary including aluminum body parts. In the event that vehicle decals are damaged, the proposer will obtain new decals from the City of Oxnard or a designated decal provider and apply new decals to the repaired vehicle. Decal removal and installation are to be included in the repair estimate. All bodywork will receive at least three coats of primer: two (2) during bodywork repair, and a minimum of one (1) during the painting process.

General Shop Requirements:

The proposer's body shop will meet the following minimum requirements:

- a) Be able to perform complete body repairs, as well as paint vehicles and equipment
- b) Maintain a paint booth that is in legal compliance with all applicable laws
- c) Maintain a secure storage area for all City of Oxnard owned vehicles
- d) Possess a MIG and TIG welder or other electric spot welding equipment for body welding including aluminum body repairs
- e) The proposer shall ensure that the vehicle computer systems are disconnected from the vehicle before any welding is done. The proposer is to replace, at his/her expense, any vehicle on board computers damaged by not disconnecting the computers before any welding operations

- f) Be available during normal business hours Monday through Friday, 8:00 a.m. to 5:00 p.m.

Estimate Process Requirements:

The proposer will provide estimates for body repair and painting on an as needed basis as requested by City of Oxnard. Estimates will include:

- a) Make, model and mileage of vehicle
- b) License plate number, VIN number and City of Oxnard unit number
- c) BOLDLY state if the estimate is in relation to an incident and note the incident report number (MVIR) and date, if any
- d) Itemized list of description of work to be performed
- e) Estimated number of labor hours of task
- f) Itemized list of parts and paint materials costs
- g) All incidentals or miscellaneous shop supplies and charges shall be included and priced accordingly
- h) Total repair estimate is to include sales tax
- i) Approximate schedule to complete the repairs after receiving a notice to proceed
- j) If applicable, any recommendations for future repairs
- k) All estimates shall be from an applicable industry standard Collision and Estimating Reference Guide used by insurance appraisers. Proposers shall provide the name and version of the guide or software used

Prior to any repair, the proposer and City of Oxnard Fleet Service Writer or Fleet Supervisor will review the estimate and confirm that the estimate includes an accurate description of the vehicle condition. All repair estimates must be approved by the City of Oxnard in writing in advance of work being performed. Repair work will not start until a notice to proceed is received. The Proposer will assume full liability and responsibility for all vehicles and contents (including radios, aftermarket lighting and other standard or installed equipment) placed in its custody by the City of Oxnard under this contract.

Parts:

All parts used to provide automotive body repair will be new Original Equipment Manufacturer (OEM). Any and all incidental charges shall be included in the proposer's hourly rate. Proposers shall furnish new unused O.E.M., remanufactured O.E.M., vehicle body parts, materials and labor as required in accordance with the provisions and specifications contained herein. If OEM parts are not available or obsolete, notification to the City of Oxnard is required for approval.

Alignment:

Proposer agrees to perform realignment of all vehicles when needed. This shall be a thrust alignment for frame vehicles and four wheel alignment for unibody vehicles. A printout of the readings after the alignment will be included in each repair order. Proposer will ensure personnel or sub-contractor is qualified to perform alignment work.

Frame Work:

Proposer agrees to perform frame straightening of all vehicles when needed. Proposer will ensure personnel or sub-contractor is qualified to perform all framework.

Airbag Components:

All airbag components shall be replaced with NEW O.E.M. parts when the decision has been made to replace the components.

Major Repairs:

If metal body or plastic components are damaged beyond repair, the damaged area will be cut out and replaced with new metal or plastic that is equal to or greater than the original thickness of the component.

Painting Process Requirements:

The paint process will consist of the following in the order listed, utilizing the latest state-of the-art painting and paint matching systems, mixing tools, California compliant water based or solvent based paints and clear coats and spraying tools:

- Primer
- Base Coat
- Clear Coat

Acceptable Paint Manufacturers:

All paints used will be from a qualified and reputable paint manufacturer, such as Diamont, Dupont, PPG, Akzonobel Sikkens or equivalent. Proposers shall provide the name of the paint manufacturer used and warranty in each estimate. No single stage paints shall be used. All Paints shall be CARB compliant.

Warranty:

All parts and supplies provided shall be warranted for a minimum period of six (6) months or twelve thousand (12,000) miles, or for any manufacturer warranty period, whichever is greater. Warranted parts shall be replaced with new parts. All warranty information will be made available to the City of Oxnard. Unsatisfactory repairs include, but are not limited to, paint swirls, fish eye

blemishes, mismatched paint color, buffer burns, as well as any other defects and/or imperfection in body work or paint finish.

Pickup and Delivery:

The proposer will provide free pickup and delivery of vehicles, including vehicle tow as necessary, when repairs or painting is required. The repaired vehicles will be returned to the City of Oxnard by personnel with the knowledge necessary to review and discuss the quality of completeness of the repairs and review the vehicle condition report with the City of Oxnard representative. If it is determined that the vehicle is not properly repaired, the vehicle will be returned to the proposer's shop for repair and delivery at no additional charge. All vehicles shall be returned to the City of Oxnard within 24 hours of completion of repairs.

Time for Performance:

Time is of the essence in returning City of Oxnard vehicles to service. The successful proposer agrees that work assigned under contract shall receive priority over the other work in its shop, unless specific prior approval has been obtained from the City of Oxnard.

EXHIBIT B

**TRADE SERVICE AGREEMENT
(CITY of Oxnard and AUTO BODY INTERNATIONAL, INC.)**

SCHEDULE OF COMPENSATION

Labor Costs

Line Item	Vehicle Type	Type of Labor	Quantity	Unit of Measure	Price
1	Light Duty	Body Repair	1	Per Hour	\$56.00
2	Light Duty	Aluminum Body Repair	1	Per Hour	\$70.00
3	Light Duty	Frame Repair	1	Per Hour	\$68.00
4	Light Duty	Glass Repair	1	Per Hour	\$56.00
5	Light Duty	Mechanical Repair	1	Per Hour	\$70.00
6	Light Duty	Paint	1	Per Hour	\$56.00
7	Light Duty	Paint Supplies	1	Per Hour	\$38.00
8	Medium Duty	Body Repair	1	Per Hour	\$56.00
9	Medium Duty	Frame Repair	1	Per Hour	\$68.00
10	Medium Duty	Glass Repair	1	Per Hour	\$56.00
11	Medium Duty	Mechanical Repair	1	Per Hour	\$70.00
12	Medium Duty	Paint	1	Per Hour	\$56.00
13	Medium Duty	Paint Supplies	1	Per Hour	\$38.00
Bid Total					\$695.00

Parts and Supplies

Line Item	Product	Specifications	Discount Off Manufacturer's Suggested Retail Price
14	OEM Replacement Parts	Domestic, Light Duty	5% Off
15	OEM Replacement Parts	Import, Light Duty	5% Off
16	Aftermarket/ Used Replacement Parts	Light Duty	5% Off
17	OEM Replacement Parts	Medium Duty	5% Off
18	Aftermarket/ Used Replacement Parts	Medium Duty	5% Off

EXHIBIT C

**TRADE SERVICES AGREEMENT
(CITY of Oxnard and AUTO BODY INTERNATIONAL, INC.)**

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "SERVICE PROVIDER") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

[See next pages]

**INSURANCE REQUIREMENTS FOR VENDORS/CONTRACTORS
(WHO REPAIR, INSTALL OR MAINTAIN VEHICLES AND EQUIPMENTS IN VENDORS/CONTRACTORS CARE,
CUSTODY AND CONTROL)**

City of Oxnard's Fleet Services Department cannot process any transactions until the following insurance documents have been submitted.

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.
 - a. Commercial General Liability Insurance, including Contractual Liability in an amount not less than \$1,000,000 Occurrence/\$2,000,000 Aggregate for bodily injury and property damage for each claimant for General Liability with coverage equivalent to Insurance Services Office Garage Insurance Coverage form. Contractor is required to provide Additional Insured Endorsement naming City of Oxnard as additional insured.
 - b. Business Automobile Liability Insurance in an amount of \$1,000,000 combined single limit for bodily injury and property damage which may arise from or in connection with the performance of services hereunder by Vendor/Contractor, its agents, representatives, employees or subcontractors. Contractor is required to provide Additional Insured Endorsement naming City of Oxnard as additional insured.
 - c. When City vehicles are in the care, custody and control of the Contractor, Garagekeepers Legal Liability in an amount not less than \$1,000,000 per claimant must be provided.
 - d. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.
2. Contractor shall, prior to performance of any services, file with the Risk Manager, certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-T. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements will be requested via email. If you have not received your request or are having difficulty with the electronic upload, contact insurance@oxnard.org.
3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better. Contractor is responsible to provide immediate notification to Risk Manager in the event coverage is suspended, voided, canceled or reduced in coverage.
4. Contractor agrees that the Commercial General Liability Insurance and Garagekeepers Legal Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **Required forms for Commercial General Liability Insurance and Garagekeepers Legal Liability Endorsements are ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037, or equivalent.**
5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

12/22

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-V.doc

ACORD CERTIFICATE OF INSURANCE						ISSUE DATE
(MM/DD/YY)						
PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.				
CODE SUB-CODE		COMPANIES AFFORDING INSURANCE COVERAGE				
INSURED		COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE COMPANY LETTER B				
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS MADE ☒ OCCUR. & ☒ OWNERS' & CONTRACTORS PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$	
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$	
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$	
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000	
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Agreement				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant	
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS						
CERTIFICATE HOLDER City of Oxnard % Evident ID, Inc. 8520 Allison Pointe Blvd Ste 223 PMB 52150 Indianapolis, Indiana 46250-4299 US			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE			

GENERAL		LIABILITY		SPECIAL		SUBMIT IN DUPLICATE	
ENDORSEMENT FOR THE CITY OF OXNARD (the "City")				ENDORSEMENT NO.		ISSUE DATE (MM/DD/YY)	
PRODUCER Telephone:				POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits			
				☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)			
NAMED INSURED				APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS			
TYPE OF INSURANCE				OTHER PROVISIONS			
GENERAL LIABILITY ☐ Claims Made ☐ COMMERCIAL GENERAL Retroactive Date _____ LIABILITY ☐ COMPREHENSIVE GENERAL _____ LIABILITY ☐ OWNERS & CONTRACTORS ☐ Occurrence PROTECTIVE							
COVERAGES		LIABILITY LIMITS IN THOUSANDS \$					
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____		EACH OCCURRENCE	AGGREGATE	CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ _____ _____ ()			
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, Insurance company agrees as follows:							
1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.							
2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.							
3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.							
4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.							
5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.							
6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001; or b. If excess, affords coverage which is at least as broad as the primary insurance form CG 0001.							
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.							
ENDORSEMENT HOLDER						AUTHORIZED REPRESENTATIVE	
City of Oxnard % Evident ID, Inc. 8520 Allison Pointe Blvd Ste 223 PMB 52150 Indianapolis, Indiana 46250-4299 US						☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone:		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
NAMED INSURED		☐ Deductible ☐ Self-Insured Retention (check which) of \$ ____ with an Aggregate of \$ _____ applies to ____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ In which case only the following specific agreements and permits with the City are covered:	
TYPE OF INSURANCE		CITY AGREEMENTS/PERMITS	
COMMERCIAL AUTO POLICY BUSINESS AUTO POLICY OTHER		OTHER PROVISIONS	
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (_____) _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER		AUTHORIZED REPRESENTATIVE	
City of Oxnard % Evident ID, Inc. 8520 Allison Pointe Blvd Ste 223 PMB 52150 Indianapolis, Indiana 46250-4299 US		☐ Broker/Agent ☐ Underwriter ☐ _____ _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: (_____) _____ Date Signed _____	

EXHIBIT D

**TRADE SERVICES AGREEMENT
(CITY of Oxnard and AUTO BODY INTERNATIONAL, INC.)**

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than \$18.22 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. SERVICE PROVIDER agrees to post, at a location readily accessible to those employees providing services to the CITY, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If SERVICE PROVIDER fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to SERVICE PROVIDER, effective immediately.

D. In addition, if SERVICE PROVIDER fails to comply with the Living Wage Policy in any manner, SERVICE PROVIDER shall pay to CITY a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. SERVICE PROVIDER shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to SERVICE PROVIDER of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2022**

SERVICE PROVIDER shall compensate any employee of SERVICE PROVIDER who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, SERVICE PROVIDER shall pay such employee no less than \$18.22 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2023, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, SERVICE PROVIDER shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. SERVICE PROVIDER agrees to post, at a location readily accessible to those employees providing services to the CITY, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If SERVICE PROVIDER fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to SERVICE PROVIDER, effective immediately.

c. In addition, if SERVICE PROVIDER fails to comply with the Living Wage Policy in any manner, SERVICE PROVIDER shall pay to CITY a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. SERVICE PROVIDER shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to SERVICE PROVIDER of the amount owed.

EXHIBIT E

**TRADE SERVICES AGREEMENT
(CITY of Oxnard and AUTO BODY INTERNATIONAL, INC.)**

PREVAILING WAGE

1. SERVICE PROVIDER acknowledges that the Project defined in the Agreement between SERVICE PROVIDER and CITY is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. SERVICE PROVIDER shall perform the Project as a public work. SERVICE PROVIDER shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. SERVICE PROVIDER acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and SERVICE PROVIDER shall post such rates at each job site covered by this Agreement.
3. SERVICE PROVIDER is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).
4. SERVICE PROVIDER shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. SERVICE PROVIDER shall, as a penalty to CITY, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by SERVICE PROVIDER or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. SERVICE PROVIDER shall comply with Labor Code Section 1776, which requires SERVICE PROVIDER and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform CITY of the location of the records.
6. SERVICE PROVIDER shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, SERVICE PROVIDER shall provide CITY with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project,

SERVICE PROVIDER and each of its subcontractors shall submit to CITY a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. SERVICE PROVIDER may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, SERVICE PROVIDER must immediately notify CITY.

8. SERVICE PROVIDER is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. SERVICE PROVIDER shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.

9. SERVICE PROVIDER acknowledges that 8 hours labor constitutes a legal day's work. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1810.

10. SERVICE PROVIDER shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. SERVICE PROVIDER shall, as a penalty to CITY, forfeit \$25 for each worker employed in the performance of this Agreement by SERVICE PROVIDER or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by SERVICE PROVIDER's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. SERVICE PROVIDER shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. SERVICE PROVIDER shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. SERVICE PROVIDER shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, SERVICE PROVIDER shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, SERVICE PROVIDER shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify CITY, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Service Provider, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of SERVICE PROVIDER under this Section shall survive Agreement termination.

FIRST AMENDMENT TO TRADE SERVICE AGREEMENT

This First Amendment ("First Amendment") to the Trade Service Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 6th day of March, 2024, by and between the City of Oxnard, a municipal corporation ("City"), and Auto Body International, Inc. ("Service Provider"). This Amendment amends the Agreement entered into on March 22, 2023, by City and Service Provider.

City and Service Provider agree as follows:

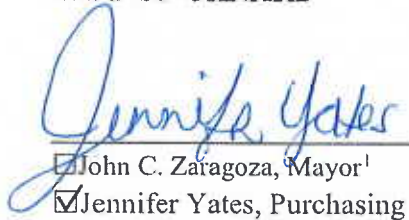
1. Pursuant to Section 3.3, the City is exercising its first one year option term. The Agreement will be extended for one additional year beginning on March 23, 2024, through April 1, 2025. The City has one option term remaining pursuant to Section 3.3.
2. As so amended, the Agreement remains in full force and effect.

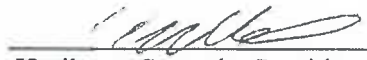
[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

AUTOBODY INTERNATIONAL, INC.

 3/6/2024
☐ John C. Zaragoza, Mayor¹ Date
☒ Jennifer Yates, Purchasing Agent²

 2-15-24
Heriberto Saucedo, President Date

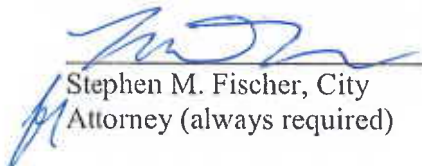
 2-15-24
Heriberto Saucedo, CFO,³ Date

ATTEST:

N/A

Rose Chaparro, City Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

 3/5/2024
Stephen M. Fischer, City Attorney (always required) Date

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.10

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Agreement 32500401 with Blackpointe Group Construction & Management, Inc. for Catch Basin Cleaning Services.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute an Agreement with Blackpointe Group Construction & Management, Inc. (Blackpointe) for an initial term of one year from March 5, 2025, to March 4, 2026, with the option for four consecutive one-year period extensions ending March 4, 2030, for a total contract amount not to exceed \$1,750,000 for catch basin cleaning services.

(Public Works and Transportation Committee approved 3-0 on February 11, 2025.)

BACKGROUND

The City of Oxnard received its most recent Municipal Separate Storm Sewer System (MS4) permit in September 2021. The MS4 permit requires that trash and debris be removed from catch basins and disposed of properly. The City owns and maintains 2,435 catch basins that capture and convey stormwater to the ocean. As a consequence of normal operation, catch basins collect a variety of trash, leaves, and plastic (debris). Debris must be removed and disposed of periodically to prevent discharge to the environment and mitigate flooding.

The City must also comply with the statewide Trash Amendments by installing full capture trash devices in stormwater catch basins. There are currently 480 full capture devices installed within catch basins with an additional 450 currently being installed and planned for completion by the end of February. These stainless steel devices act as a barrier for trash and debris that may fall into the catch basin. These devices also require inspection and cleaning.

DISCUSSION

On November 12, 2024, the Purchasing Department released a Request for Proposal (RFP) PW 25-47 for Catch Basin Cleaning Services. The RFP was directly sent to three potential vendors and published on www.PublicPurchase.com as well as the City's Purchasing website. The solicitation closed on December 19, 2024, and a total of three proposals were received from Blackpointe, Downstream, and United Stormwater.

An evaluation team consisting of Wastewater staff (Sr. Environmental Specialist, Collections Manager, and Sr. Analyst) reviewed all proposals and determined Blackpointe to be the best value. The RFP process used the "best value method" to ensure the selection of an ideal contractor capable of providing adequate staffing and meeting service requirements. Blackpointe stood out as both the most qualified and the lowest bidder. The selection was based on comprehensive scoring criteria, including proposal responsiveness, qualifications, experience, track record in providing the requested services, performance history, and cost. Additionally, the awarded contractor meets all required City contractual provisions, including possession of a City business tax certificate, insurance certificates, and corporate filing with the California Secretary of State.

Blackpointe currently holds this contract and has consistently provided satisfactory service. Through this new agreement, Blackpointe will provide catch basin inspection, cleaning and disposal of trash and debris, and storm drain placard replacement for the City's 2,435 catch basins. All trash and debris will be properly disposed of at a location that is permitted, regulated, and meets all federal, state, and local regulations. Removal of debris from catch basins greatly reduces unwanted waste from infiltrating waterways and also mitigates flooding during wet weather events.

Additionally, Blackpointe will use the City's GIS system to log and quantify all cleaning and inspection activities and will be required to adjust full capture stormwater devices, when required. Blackpointe shall photograph each catch basin before and after each inspection/cleaning event and provide disposal manifests with every bill. The cleaning schedule will be as follows:

Months	Season	Catch Basins to Clean/ Inspect
July - December	Rainy	2435
January - June	Dry	2435

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for this Agreement with Blackpointe for catch basin cleaning services shall not exceed \$1,750,000 over the five-year term if extended. Funding for this Agreement has been programmed and is available in the Fiscal Year 2024-25 Adopted Budget from the Stormwater Operating Fund (114). Billing will be done on a monthly basis and paid for the actual number of catch basins inspected and cleaned the previous month. Funding for subsequent fiscal years will be requested through the annual budget process.

Catch Basin Cleaning Estimated Spending Plan 1143501-53200						
FY 24-25 (4 Months)	FY 25-26 (12 Months)	FY 26-27 (12 Months)	FY 27-28 (12 Months)	FY 28-29 (12 Months)	FY 29-30 (8 months)	TOTAL
\$100,000	\$350,000	\$350,000	\$350,000	\$350,000	\$250,000	\$1,750,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on February 11, 2025 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Timothy Beaman, Assistant Public Works Director, Jan Hauser, Wastewater Division Manager, Luis Ortega, Management Analyst

ATTACHMENTS

1. Agreement 32500401

**GENERAL SERVICE AGREEMENT
BETWEEN
THE CITY OF OXNARD AND BLACKPOINTE GROUP CONSTRUCTION &
MANAGEMENT, INC.**

By This General Services Agreement ("Agreement"), the CITY of Oxnard ("City") agrees to engage the services of Blackpointe Group Construction & Management, Inc. ("Service Provider"), and Service Provider agrees to perform the services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Service Provider may be individually referred to as "Party" or collectively as the "Parties."

1. [Intentionally Omitted]

2. SUMMARY DESCRIPTION OF SERVICES.

This Agreement is for the inspection, cleaning, debris hauling and disposal, data logging, and placement of catch basin placards for the City of Oxnard's catch basins and trash excluders. Inspection and cleaning of the catch basins is to occur twice per year.

The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. Service Provider may not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this agreement.

3. PARTIES.

City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

Blackpointe Group Construction & Management, Inc., a corporation of the State of California, located at 11972 Hertz Ave, Moorpark CA 93021

4. TERM OF AGREEMENT: From: 3/5/25 To: 3/4/26

- A. Time is of the essence in this Agreement.
- B. The City shall have the option for (4) four consecutive (1) one-year extensions, in accordance with the scope of work and general terms and conditions of the On-Call General Services Agreement.
- C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the

Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

- D. All services required of Service Provider under this Agreement shall be completed on or before the end of the term of the Agreement.

5. AGREEMENT AMOUNT NOT TO EXCEED: \$1,750,000.00¹

6. AGREEMENT EXHIBITS: The following documents memorialized below are the only exhibits to this agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: [RESERVED]
Exhibit E: Living Wage Policy
Exhibit F: Prevailing Wage Policy
Exhibit G: Iran Contracting Certification

7. DESIGNATED REPRESENTATIVES. The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, Service Provider's services shall be performed or immediately supervised by the Service Provider's Representative:

City Designated Representative Name: Heather D'Anna Nichols Title: Sr. Wastewater Environmental Specialist Phone: 805-385-3961 Email: heather.d'anna@oxnard.org Address: 6001 Perkins Road Oxnard, CA 93030	Service Provider Designated Representative Name: Victor Shittone Title: Director Phone: 818-749-8803 Email: victor@blackpointe.com Address: 11972 Hertz Ave Moorpark, CA 93021
---	--

8. CONTRACTUAL PREREQUISITES. This Agreement must first be executed by the Service Provider, after which the Agreement shall be approved as to form by the City

¹ This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

- A. Service Provider is advised that any recommendation for Agreement award is not binding on the City until the Agreement is fully executed and approved by the City.
- B. All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.
- C. Service Provider shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. SERVICE PROVIDER'S SERVICES.

- A. Service Provider shall perform only the type or category of services as set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.
- B. The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Service Provider hereby designates its Project Manager, as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

10. COMPENSATION. City shall pay Service Provider for the services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Service Provider's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Service Provider perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

- A. Annual Rate and Fees adjustments must be requested in writing and accompanied by information to substantiate the request for price adjustments. Adjustments are subject to approval by the City. Any allowable request for adjustment must be delivered to the City at least 30

days before the adjusted prices become effective. No price adjustment allowable under this Contract will be granted retroactively. The City must also be given the benefit of any decline in prices.

11. PAYMENT & INVOICES. City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Service Provider of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

- A. Payment Request. Service Provider shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: pwinvoices@oxnard.org.
- B. Non-Appropriation of Funds. Payments to be made to Service Provider by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.
- C. Service Provider's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Service Provider for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Service Provider for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Service Provider and its employees, agents and Subcontracted Service Providers.
- D. Service Provider shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Service Provider or materials or products provided to City by Service Provider, Service Provider shall pay the sales tax. City shall not reimburse Service Provider for sales taxes paid by Service Provider

12. OPTION TO EXTEND AGREEMENT. When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. MODIFICATION OF AGREEMENT. This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Service Provider perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. TERMINATION OF AGREEMENT. City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Service Provider only for work done by Service Provider up to and including the date of termination of this Agreement unless the termination is for cause, in which event Service Provider need be compensated only to the extent required by law. Service Provider may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' written notice.

15. [RESERVED]

16. INDEPENDENT CONTRACTOR. Service Provider is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Service Provider or any of its employees, except as stated in this Agreement. Service Provider has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Service Provider. This Agreement shall not be interpreted to prevent or preclude Service Provider from rendering any services for Service Provider's own account or to any

other person or entity as Service Provider in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the Service Provider shall perform for the City. The City retains the right to provide general instructions to and observe the Service Provider in the performance of all services done on behalf of the City.

Service Provider and its employees, subcontractors, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Service Provider and its employees are not employees of City. Service Provider and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Service Provider shall not, at any time or in any manner, represent that it or any of its agents, subcontractors, or employees are in any manner agents, subcontractors, or employees of City.

17. LAWFUL PERFORMANCE. Service Provider shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. Service Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

18. SAFETY REQUIREMENTS. Service Provider shall not perform any services for the City when the Service Provider is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Service Provider when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of Service Provider's work by City shall not operate as a release of the Service Provider from such standard of care and workmanship.

19. OWNERSHIP OF SERVICE PROVIDER'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE. City shall be the owner of any and all technical documents and

records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Service Provider in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

- A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Service Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City.
- B. Records and Inspections. The Service Provider shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.
- C. Deliverables. Service Provider shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services or Task Order; and Service Provider shall, upon completion of all work, submit to the City all information developed in the course of the Service Provider 's services. Service Provider shall, in such time and in such form as the City may require, furnish reports concerning the status of services required under this Agreement. Service Provider shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Service Provider by the City.
- D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Service Provider may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Service Provider to perform its obligations pursuant to this Agreement. If Service Provider is granted such access to confidential information, Service Provider shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.
- E. Disclosure of Information. Service Provider shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects

assigned to Service Provider by the City or other information to which the Service Provider has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

- F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Service Provider in reliance on any Confidential Information disclosed under this Agreement.

20. ASSIGNMENT. This Agreement is for the non-professional services of Service Provider. Any attempt by Service Provider to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Service Provider's services pursuant to this Agreement shall be provided by the Service Provider's Designated Representative or directly under his/her supervision, and Service Provider shall not assign another to supervise the Service Provider's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

21. NOTICE OF BREACH AND OPPORTUNITY TO CURE. Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. NOTICES. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. COVENANTS AND CONDITIONS. Each term and each provision of this Agreement to be performed by Service Provider shall be construed to be both a covenant and a condition.

24. WAIVER. City's review or acceptance of, or payment for, work product prepared by Service Provider under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Service Provider's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

25. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

- A. As a separate and independent covenant from Service Provider's obligations under this section, Service Provider shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from Service Provider's negligence or willful misconduct in the performance of the services described in this Agreement or failure to comply with any of its obligations contained in this Agreement. Service Provider's liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Service Provider's obligation to indemnify and defend applies unless it is proven such liabilities covered by this Section are the result of negligence or willful misconduct of any of the Indemnitees.
- B. The duty to defend is a separate and distinct obligation from Service Provider's duty to indemnify. Service Provider shall be obligated to defend in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to Service Provider of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation of negligence or willful misconduct by any of the Indemnitees shall not relieve Service Provider from its separate and distinct obligation to defend the Indemnitees. The obligation to defend extends through final judgment,

including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Service Provider asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnitees. If it is finally adjudicated that liability was caused by the negligence or willful misconduct of any of the Indemnitees, Service Provider may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

- C. The review, acceptance or approval of Service Provider's work or work product by any of the Indemnitees shall not affect, relieve or reduce Service Provider's indemnification or defense obligations. Service Provider waives any right of contribution against City or any of City's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by Service Provider pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 26. The Service Provider's obligations under this Section of the Agreement shall survive the termination of the Agreement.
- D. Service Provider agrees to pay all required taxes on amounts paid to Service Provider under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Service Provider shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Service Provider's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to Service Provider under this Agreement any amount due to City from Service Provider as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

26. INSURANCE. Service Provider shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Service Provider obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Service Provider shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages

by Service Provider is a material element of this Agreement. Service Provider's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

27. LIVING WAGE REQUIREMENTS. During the term of this Agreement, Service Provider understands and agrees that if Living Wages are applicable subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit E" to this Agreement. Service Provider will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the Service Provider.

28. PREVAILING WAGE REQUIREMENTS. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "F" attached to this Agreement.

- A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: <https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>
- B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
- C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Service Provider.

29. CONFLICT OF INTEREST. Service Provider covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Service Provider's services under this Agreement. Service Provider further covenants that in the performance of services under this Agreement, no officer, employee or agent of Service Provider having such interest shall be employed by it. In the event the City determines that Service

Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Service Provider shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Service Provider may result in termination of this Agreement by the City.

30. IRAN CONTRACTING ACT. In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars (\$1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars (\$1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit G.

31. SUBCONTRACTING. If Service Provider requires the assistance of a subcontractor to render any services under this agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as Exhibit A. Service Provider is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Service Provider shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

32. DISPUTES. Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Service Provider. The decision of the City's Designated Representative shall be final and conclusive unless Service Provider requests mediation within ten (10) calendar days. Pending final decision of a dispute, the

Service Provider shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

33. DISPUTE RESOLUTION. Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty-five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

34. AUDIT. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Service Provider in preparing its billings to CITY as a condition precedent to any payment to Service Provider; or for other purposes relating to the Agreement. Service Provider will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit Service Provider for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Service Provider shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Service Provider shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Service Provider shall include a copy of this Section in all contracts with its subcontractors, and Service Provider shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

35. ADVERTISING AND PUBLICITY. Service Provider shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

- 36. NONDISCRIMINATORY EMPLOYMENT.** Service Provider shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Service Provider understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Service Provider shall be responsible for such subcontractor's compliance with this Section.
- 37. FORCE MAJEURE.** Neither the Service Provider nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.
- 38. GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
- 39. SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.
- 40. INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.
- 41. NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.
- 42. AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental

entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

43. EXECUTION – COUNTERPARTS. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

44. INCONSISTENT OR CONFLICTING TERMS. In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

45. ACKNOWLEDGEMENT. By signing below, Service Provider acknowledges that it has reviewed the City's General Services Agreement terms and conditions and insurance requirements and that Service Provider hereby agrees to full compliance.

[Signatures on next page]

In witness whereof, the Parties have entered into this Agreement effective on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

**BLACKPOINTE GROUP CONSTRUCTION
& MANAGEMENT, INC.**

☐ Luis Mc Arthur, Mayor² _____ Date
☐ Jennifer Yates,³
Purchasing Manager

Victor Shittone, Director/Secretary _____ Date

Laurel Shittone, CFO⁴ _____ Date

ATTEST:

Lourdes A. López, CITY Clerk _____ Date
(only if Mayor signs)

APPROVED AS TO FORM:

Stephen M. Fischer, CITY _____ Date
Attorney (always required)

² The City Council must authorize and the Mayor must execute any agreement over \$200,000.

³ The Purchasing Agent may execute any authorized agreement up to \$200,000.

⁴ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner. If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

GENERAL SERVICE AGREEMENT (CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT, INC.)

SCOPE OF SERVICES

PROJECT MANAGER: Heather D'Anna, heather.d'anna@oxnard.org, 805-385-3961

The Contractor shall furnish all necessary labor, materials, equipment and other incidental and appurtenant Work to provide Catch Basin Cleaning Services for the City of Oxnard.

Inspection

- Contractor shall inspect every catch basin per the attached schedule and if needed clean catch basin inlets, trash excluders, underground vaults, catch basins, and concrete inlets of debris, sediment, and miscellaneous obstructions.
- Contractor shall photograph each catch basin before and after cleaning/ inspection.
- Prior to cleaning the catch basin, the Contractor shall identify the type of debris in the basin as well as quantify the amount of debris in the basin on a scale of 0-100% capacity.

Cleaning

- Catch basin structures shall be cleaned until all debris is removed from the side walls, bottom, and trash excluder screen if present.
- Services can be performed by hand, vacuum combination truck or by other methods as approved by the City.

Debris Hauling and Disposal

- Contractor shall provide transport and disposal of all debris generated as a result of catch basin cleaning. Contractor shall use a disposal site that is properly permitted, regulated, and meets all federal, state, and local guidelines.
- Contractor shall provide disposal manifests with every bill.

Data Logging

- The City will supply the contractor with a GIS application for capturing and storing project and catch basin information.
- Contractor shall purchase a yearly license use agreement to the City's GIS mapping system that will allow for upload of all necessary information of each catch basin as necessary.
- All debris quantities and related work shall be entered into a contractor owned tablet connected to the City's GIS Storm Drain Database.
- Contractor shall complete the survey form in its entirety for each catch basin

- Contractor shall note any trash excluder damage on the survey form and report any trash excluder damage to City personnel immediately.

Catch Basin Placards

- Contractor will be supplied with “No Dumping Drains to Ocean” placards and adhesive
- Contractor shall replace any missing or illegible placards

Safety

- Contractor shall develop, submit, and secure approved Traffic control plan for each location as necessary.
- The services of this nature are considered to be in a confined space. Contractor shall take all necessary precautions to ensure the safety of employees at all times.

Warranty

- Catch basins may be field checked by City staff within 1 week of notification of completion and shall be re-cleaned by contractor if debris removal is deemed unsatisfactory. The City will not be charged for this supplementary cleaning.

Invoicing

- Contractor shall provide a monthly summary of catch basin inspections, cleaning and tonnage along with waste manifests and placards replaced.

Scheduling

- The City requests that catch basins be cleaned twice per year, once prior to the rainy season and once after. Contractor is responsible for maintaining an appropriate level of staff to complete services and shall coordinate with the designated City Representative regarding the scheduling of inspections and cleanings of the catch basins prior to start of work.

Month	Season	# CB Inspect/ Clean
July – December	Rainy	2435
Jan – June	Dry	2435

EXHIBIT B

**GENERAL SERVICE AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT,
INC.)
SCHEDULE OF COMPENSATION**

Item No.	Description	Unit	Total
1	Inspection Only	Each catch basin	\$23.00
2	Inspection & Cleaning Inlets Without Devices	Each catch basin	\$71.17
3	Inspection & Cleaning Inlets with Full Trash Capture (FTC) Devices	Each catch basin	\$71.17
4	Placard Installation	Each	\$10.00
5	Hauling & Disposal of Non-Hazardous Catch Basin Waste	Per ton	\$1.00
6	Hauling & Disposal of Hazardous Catch Basin Waste	Per ton	\$1.00

EXHIBIT C

**GENERAL SERVICES AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT,
INC.)**

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "SERVICE PROVIDER") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

[SEE NEXT PAGES]

**INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)**

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of \$1,000,000, with neither Consultant nor listed subconsultants having less than \$500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER A

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 46250-4299 US**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")						SUBMIT IN DUPLICATE	
						ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER			POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits				
Telephone:			☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)				
NAMED INSURED			APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered				
			CITY AGREEMENTS/PERMITS				
TYPE OF INSURANCE							
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made ☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____ ☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence							OTHER PROVISIONS
COVERAGES			LIABILITY LIMITS IN THOUSANDS \$				
			EACH OCCURRENCE	AGGREGATE			
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____					CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ _____ Telephone: () _____		
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:							
INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.							
CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.							
SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.							
CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.							
PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.							
SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or If excess, affords coverage which is at least as broad as the primary insurance form CG0001.							
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.							
ENDORSEMENT HOLDER							
CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 462500-4299 US				AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ _____ (original signature required) Telephone: () _____ Date Signed: _____			

[illegible]

EXHIBIT D

**GENERAL SERVICES AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT,
INC.)**

[RESERVED]

EXHIBIT E

**GENERAL SERVICES AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION & MANAGEMENT,
INC.)**

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

- A. Service Provider shall compensate any employee of Service Provider who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Service Provider shall pay such employee no less than \$19.51 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Service Provider shall provide to such employee no less than 96 hours of paid leave per calendar year.
- B. Service Provider agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.
- C. If Service Provider fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Service Provider, effective immediately.
- D. In addition, if Service Provider fails to comply with the Living Wage Policy in any manner, Service Provider shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Service Provider shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Service Provider of the amount owed.

EXHIBIT F

**GENERA SERVICES AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION &
MANAGEMENT, INC.)**

PREVAILING WAGE

1. Service Provider acknowledges that the Project defined in the Agreement between Service Provider and CITY is a “public work” as defined in Division 2, Part 7, Chapter 1 of the California Labor Code (“Chapter 1”), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations (“DIR”) implementing such statutes. Service Provider shall perform the Project as a public work. Service Provider shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR’s rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Service Provider acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Service Provider shall post such rates at each job site covered by this Agreement.
3. Service Provider is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).
4. Service Provider shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Service Provider shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR’s determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Service Provider or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Service Provider shall comply with Labor Code Section 1776, which requires Service Provider and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform CITY of the location of the records.

6. Service Provider shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Service Provider shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Service Provider and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Service Provider may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Service Provider must immediately notify City.

8. Service Provider is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Service Provider shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.

9. Service Provider acknowledges that 8 hours labor constitutes a legal day's work. Service Provider shall comply with and be bound by Labor Code Section 1810.

10. Service Provider shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Service Provider shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Service Provider or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Service Provider's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Service Provider shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Service Provider shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Service Provider shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Service Provider shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Service Provider shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Service Provider, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Service Provider under this Section shall survive Agreement termination.

EXHIBIT G

**GENERAL SERVICES AGREEMENT
(CITY of Oxnard and BLACKPOINTE GROUP CONSTRUCTION &
MANAGEMENT, INC.)**

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.11

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Second Amendment to Agreement 32400156 with Roesling Nakamura Terada Architects, Inc. for Architecture and Engineering Services for the Wastewater Division New Maintenance Building Project PW 22-36.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a Second Amendment to an Agreement with Roesling Nakamura Terada Architects, Inc. (RNT) in the amount of \$100,000 for a new not to exceed value of \$1,100,000 for additional design work required for the New Wastewater Maintenance Building PW 22-36.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement program budget, which was previously approved by the City Council.)

BACKGROUND

The Water Resource Recovery Facility (WRRF) owns and operates a 9,032 square foot Maintenance Building. Constructed in 1978, this building offers office space, a breakroom, a paint booth, a machine shop, equipment storage, locker rooms, and other employee amenities. Originally designed to accommodate just one-third of today's staff, the facility no longer meets the demands of modern operations. The plumbing, roof, and electrical systems have reached the end of their useful life and require expensive maintenance efforts to remain operable. Additionally, this building was designed and constructed under an outdated seismic code.

On December 05, 2023, the City Council approved Agreement 32400156 with RNT in the amount of \$1,000,000 for Architecture and Engineering Services for the Wastewater Division's New Maintenance Building Project. The scope of work included:

- Project Management
- Data Gathering, Site Visit, and Preliminary Investigations
- Schematic Design Phase
- Design Development Phase
- Construction Document Phase
- Bid Phase
- Construction Administration Phase
- Scope and program Verification, and Building Commission

Capital Improvement Program (CIP) Reference:

Project No. **C2236** - Wastewater: Maintenance Building Expansion - CIP 2025-2029 - Adopted June 4, 2024 - Page 152.

DISCUSSION

The design of this new maintenance building is currently at 80% completion with bidding for construction estimated for mid-2025.

As the design of the new building and site layout progressed through the design development phase and more site-specific details became available, it was identified that specific items needed to be addressed differently than originally assumed in the design scope of work. These requirements were not known at the start of the project but were discovered during the design phase and review by the Development Advisory Committee (DAC). The required additional design work includes:

- Additional paving, parking, and driveway access
- New storm drain facilities
- Relocating and adding new outdoor lighting
- Relocation of existing utilities

Specifically, the design changes include a wider driveway required to meet Fire Department access requirements, which then required additional stormwater analysis and design changes. Americans with Disabilities Act (ADA), security, and safety enhancements required additional site lighting, parking, and sidewalk design. Relocation of electrical infrastructure was required to meet increased energy demands and additional lighting.

This amendment will allow for the required design changes as well as future changes that may arise during the final design and into the construction phase, if needed.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for this Second Amendment to Agreement 32400156 with RNT shall not exceed \$100,000 with a new total contract value of \$1,100,000 for professional architectural and engineering services.

The Water Resource Recovery Facility's New Maintenance Building Project (C2236) is funded from the Wastewater Operating Fund (611) with an available project budget of approximately \$2.3M to fund this Project.

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Timothy Beaman, Assistant Public Works Director, Jan Hauser, Wastewater Division Manager, Luis Ortega, Management Analyst

ATTACHMENTS

1. Second Amendment 32400156
2. Original Agreement and First Amendment 32400156

**SECOND AMENDMENT TO CONSULTANT/PROFESSIONAL SERVICES
AGREEMENT**

This Second Amendment (“Second Amendment”) to the Consultant/Professional Services Agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this _____ day of _____, 20____, by and between the City of Oxnard, a municipal corporation (“City”), and Roesling Nakamura Terada Architects, Inc. (“Consultant”). This Second Amendment amends the Agreement entered into on December 6, 2023, by City and Consultant. The Agreement previously has been amended on September 17, 2024, by a First Amendment.

City and Consultant agree as follows:

1. The agreement not to exceed amount in Section 4 of the Agreement is hereby amended to “\$1,100,000.”
2. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

**ROESLING NAKAMURA
TERADA ARCHITECTS, INC.**

☐ Luis Mc Arthur, Mayor¹ Date
☐ Jennifer Yates, Purchasing Agent²

 Chikako Terada, CEO Date

 Christopher Bradbury, CFO³ Date

ATTEST:

 Lourdes A. López, City Clerk Date
 (only if Mayor signs)

APPROVED AS TO FORM:

 Stephen M. Fischer, Date
 City Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

FIRST AMENDMENT TO CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This First Amendment ("First Amendment") to the Consultant/Professional Services Agreement ("Agreement") is made and entered into in the County of Ventura, State of California, this 17 day of September, 2024, by and between the City of Oxnard, a municipal corporation ("City"), and Roesling Nakamura Terada Architects, Inc. ("Consultant"). This First Amendment amends the Agreement entered into on December 6, 2023, by City and Consultant.

City and Consultant agree as follows:

1. Pursuant to Section 3.3, the City is exercising its first one year option term. The Agreement will be extended for one additional year beginning on December 6, 2024, through December 5, 2025. The City has two option terms remaining pursuant to Section 3.3.
2. The reference to the Schedule of Compensation Exhibit B everywhere it is listed in the Agreement is hereby amended to the Schedule of Compensation Exhibit B-1 Effective December 6, 2024. The Schedule of Compensation Exhibit B is hereby disincorporated; instead, the Schedule of Compensation Exhibit B-1 Effective December 6, 2024, is attached hereto and incorporated herein by this reference.
3. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

for Patricia Garcia 9/17/24
☐ John C. Zaragoza, Mayor¹ Date
☒ Jennifer Yates, Purchasing Agent²

**ROESLING NAKAMURA
TERADA ARCHITECTS, INC.**

Chikako Terada
 Chikako Terada, CEO Date

Chris Bradbury Sept 6th, 2024
 Christopher Bradbury, CFO³ Date

ATTEST:

N/A
 Rose Chaparro, City Clerk Date
 (only if Mayor signs)

APPROVED AS TO FORM:

Stephen M. Fischer 9/17/2024
 Stephen M. Fischer, City Attorney (always required) Date

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

SCHEDULE OF COMPENSATION EXHIBIT B-1 EFFECTIVE DECEMBER 6, 2024

Position	Hourly
Roesling Nakamura	
Principal	\$ 296.40
Project Manager	\$ 254.80
Project Architect	\$ 218.40
Principal Designer	\$ 218.40
Drafter	\$ 166.40
Administrative	\$ 114.40
ECG Civil	
Principal	\$ 218.40
Senior II	\$ 197.60
Senior I	\$ 182.00
Associate	\$ 166.40
Assistant	\$ 140.40
2-Man Survey Crew	\$ 291.20
Administrative	\$ 83.20
Ashley Vance	
Principal	\$ 234.00
Senior Project Manager	\$ 192.40
Project Engineer	\$ 156.00
BMA	
Principal Engineer (Mechanical)	\$ 265.20
Project Manager	\$ 174.72
Project Engineer (Plumbing)	\$ 145.60
Designer	\$ 124.80
Energy Analyst	\$ 145.60
Thoma	
Electrical Engineer of Record	\$ 231.92
Project Manager	\$ 202.80
Design Assistant	\$ 144.56
Jacobus & Young	
Principal	\$ 204.60
Senior Estimator	\$ 138.73
Estimator	\$ 102.30
Geosyntec	
Principal	\$ 305.76
Senior Project Manager	\$ 264.16
Staff Field Personnel	\$ 185.12
Environmental	
Principal	\$ 301.60
Project Manager	\$ 202.80
Technical Associate	\$ 202.80
Senior Planner	\$ 156.00
Assistant Planner and Support	\$ 130.00

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND ROESLING NAKAMURA TERADA ARCHITECTS, INC.**

By This Consultant/Professional Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of Roesling Nakamura Terada Architects, Inc. ("CONSULTANT"), and CONSULTANT agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and CONSULTANT may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. Architectural and Engineering Services for Oxnard Wastewater Treatment Plant New Maintenance Building.

2. PARTIES.

CITY of Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

Roesling Nakamura Terada Architects, Inc. ("CONSULTANT"), a corporation of the State of California, located at 285 North Ventura Ave., Suite 102, Ventura, California 93001

3. TERM OF AGREEMENT: From: December 6, 2023 To: December 5, 2024

3.1 Time is of the essence in this Agreement.

3.2 The CITY shall have the option for (2) two consecutive (1) one-year extensions, in accordance with the scope of work and general terms and conditions of the Trade Services Agreement. Any price increases or decreases shall be negotiated at time of contract extension.

3.3 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of five (5) years. The CITY in its sole discretion may exercise the optional extension upon 60 days written notice to the SERVICE PROVIDER in accordance with Section 11 of this Agreement. SERVICE PROVIDER shall issue its written consent to the CITY's exercise of the option extension within 10 days of receipt of notice from the CITY. All Notices shall comply with Section 20 of this Agreement.

3.4 All services required of CONSULTANT under this Agreement shall be completed on or before the end of the term of the Agreement.

4. AGREEMENT AMOUNT NOT TO EXCEED: \$1,000,000.

5. AGREEMENT EXHIBITS.

The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Certification

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, CONSULTANT's services shall be performed or immediately supervised by the CONSULTANT's Representative:

CITY Designated Representative:
Name: Jan Hauser
Title: Wastewater Division Manager
Phone: 805-271-2205
Email: jan.hauser@oxnard.org

CONSULTANT Designated Representative:
Name: Christopher Bradbury
Title: Principal
Phone: 805-626-5333
Email: bradbury@rntarchitects.com

Mailing Address (if differs from above):
6001 Perkins Road
Oxnard, California 93033

Mailing Address (if differs from above):

7. CONTRACTUAL PREREQUISITES.

- 7.1 This Agreement must first be executed by the CONSULTANT, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the City Clerk.
- 7.2 CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on CITY until the AGREEMENT is fully executed and approved by CITY.
- 7.3 A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

- 7.4 All proof of business license, insurance, and W-9 forms is required prior to execution of this Agreement.
- 7.5 CONSULTANT shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. CONSULTANT'S SERVICES.

- 8.1 CONSULTANT shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.
- 8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. CONSULTANT hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay CONSULTANT for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay CONSULTANT an amount not to exceed the amount is listed in Section 4 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement and may be subject to approval by the City Council.

- 9.1 Price Adjustments. Unless otherwise stated, prices are maximum for the term of the Contract. Price adjustments, if allowed under this Contract, must be requested in writing and accompanied by the required information to substantiate the request for price adjustment, as set forth in the Contract. Any allowable request for price adjustment must be delivered to the CITY at least 30 days before the adjusted prices become effective. No price adjustment allowable under this Contract will be granted retroactively. The CITY must also be given the benefit of any decline in prices. If any price increase is granted by the CITY, the increase shall not be greater than 3% from the prior year.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within thirty (30) days after receipt of such invoice, notify the CONSULTANT of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. CONSULTANT shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: pwinvoices@oxnard.org.

10.2 Non-Appropriation of Funds. Payments to be made to CONSULTANT by CITY for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of CITY. In the event CITY does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which CITY appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

10.3 CONSULTANT's acceptance of final payment made pursuant to this Agreement shall constitute a release of CITY from all claims and liabilities for compensation to CONSULTANT for anything completed, finished or relating to the Services. CITY's payment shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by CITY for any defect or error in the Services performed by CONSULTANT and its employees, agents and subcontracted consultants.

10.4 CONSULTANT shall provide CITY with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by CONSULTANT or materials or products provided to CITY by CONSULTANT, CONSULTANT shall pay the sales tax. CITY shall not reimburse CONSULTANT for sales taxes paid by CONSULTANT.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in sections 3.2, then this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard City Code, Sections 4-59 and 4-60. **13. TERMINATION OF AGREEMENT.**

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to CONSULTANT only for work done by CONSULTANT up to and including the date of termination of this Agreement unless the termination is for cause, in which event CONSULTANT need be compensated only to the extent required by law. CONSULTANT may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' prior written notice.

14. INDEPENDENT CONTRACTOR

CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its employees or agents shall have control over the conduct of CONSULTANT or any of its employees, except as stated in this Agreement. CONSULTANT has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting CONSULTANT. This Agreement shall not be interpreted to prevent or preclude CONSULTANT from rendering any services for CONSULTANT's own account or to any other person or entity as CONSULTANT in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services the CONSULTANT shall perform for the CITY. The CITY retains the right to provide general instructions to and observe the CONSULTANT in the performance of all services done on behalf of the CITY.

CONSULTANT and its employees and agents have no authority, express or implied, to act on behalf of CITY in any capacity, to incur any debt, obligation or liability on behalf of CITY, bind CITY in any manner, or otherwise act on behalf of CITY as an agent. CONSULTANT and its employees are not employees of CITY. CONSULTANT and its employees are not entitled to receive from CITY any of the benefits or rights afforded employees of CITY, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. CONSULTANT shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

15. LAWFUL PERFORMANCE.

CONSULTANT shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. CONSULTANT, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate

permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

CONSULTANT shall not perform any services for the CITY when the CONSULTANT is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to CONSULTANT when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of CONSULTANT's work by CITY shall not operate as a release of the CONSULTANT from such standard of care and workmanship.

17. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by CONSULTANT in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The CONSULTANT shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. CONSULTANT shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and CONSULTANT shall, upon completion of all work or termination of this Agreement, submit to the CITY all information developed in the course of the CONSULTANT's services. CONSULTANT shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. CONSULTANT shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to CONSULTANT by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. CONSULTANT agrees that CITY may make modifications to computer

software furnished by CONSULTANT without infringing CONSULTANT's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONSULTANT pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the CITY or information belonging to a third party whose information is in the CITY's possession or control under obligations of confidentiality. CONSULTANT may be granted access to information that is exempt from disclosure to the public (see Government Code Sections under 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510 (f)) when it is necessary for CONSULTANT to perform its obligations pursuant to this Agreement. If CONSULTANT is granted such access to confidential information, CONSULTANT shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

17.6. Disclosure of Information. CONSULTANT shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to CONSULTANT by the CITY or other information to which the CONSULTANT has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

17.7. No Warranty. Other than an obligation upon the CITY to deal in good faith, the CITY makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by CONSULTANT in reliance on any Confidential Information disclosed under this Agreement.

18. ASSIGNMENT.

This Agreement is for the professional services of CONSULTANT. Any attempt by CONSULTANT to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. CONSULTANT's services pursuant to this Agreement shall be provided by the CONSULTANT's Designated Representative or directly under his/her supervision, and CONSULTANT shall not assign another to supervise the CONSULTANT's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

20. NOTICE.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by CONSULTANT shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 As a separate and independent covenant from CONSULTANT's obligations under this section, CONSULTANT shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless CITY, its legislative and advisory bodies, and the CITY's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with CONSULTANT's performance of this Agreement or CONSULTANT's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and

administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. CONSULTANT's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

23.2 The duty to defend is a separate and distinct obligation from CONSULTANT's duty to indemnify. CONSULTANT shall be obligated to defend in all legal, equitable, administrative, or special proceedings, with counsel approved by the CITY Attorney, immediately upon tender to CONSULTANT of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by any of the Indemnitees shall not relieve CONSULTANT from its separate and distinct obligation to defend the Indemnitees. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if CONSULTANT asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnitees. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of any of the Indemnitees, CONSULTANT may submit a claim to CITY for reimbursement of reasonable attorneys' fees and defense costs.

23.3 The provisions of this Subsection 23.3 apply only in the event that CONSULTANT is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

23.3.1 Notwithstanding the provisions of Subsections 23.1 and 23.2 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, CONSULTANT's duty to indemnify, hold harmless, and defend the Indemnitees shall be limited to the extent that any claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

23.3.2 In no event shall the costs of defense charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection 23.3 shall be construed to require CONSULTANT to provide indemnification for claims caused by the active negligence or willful misconduct of the Indemnitees. **23.4** The review, acceptance or approval of CONSULTANT's work or work product by any of the Indemnitees shall not affect, relieve or reduce CONSULTANT's indemnification or defense obligations. CONSULTANT waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by CONSULTANT pursuant to this Agreement. The provisions of this

Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The CONSULTANT's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.5 CONSULTANT agrees to pay all required taxes on amounts paid to CONSULTANT under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. CONSULTANT shall be solely responsible for, and shall save CITY harmless from, all matters relating to the payment of CONSULTANT's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. CITY shall have the right to offset against the amount of any compensation due to CONSULTANT under this Agreement any amount due to CITY from CONSULTANT as a result of its failure to promptly pay to CITY any reimbursement or indemnification arising under this Section.

24. INSURANCE.

CONSULTANT shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that CONSULTANT obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. CONSULTANT shall, before performance of any services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by CONSULTANT is a material element of this Agreement. CONSULTANT'S failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, CONSULTANT understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, CONSULTANT will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less

when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to: <https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the CITY of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

27. IRAN CONTRACTING ACT

In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any CONSULTANT that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify, that the CONSULTANT is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A CONSULTANT is ineligible to enter into any contract with the CITY for goods or services of one million dollars (\$1,000,000) or more if the CONSULTANT engages in investment activities in Iran. CONSULTANT must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

28. CONFLICT OF INTEREST

CONSULTANT covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of CONSULTANT's services under this Agreement. CONSULTANT further covenants that in the performance of services under this Agreement, no officer, employee or agent of CONSULTANT having such interest shall be employed by it. In the event the CITY determines that CONSULTANT must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, CONSULTANT shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by CONSULTANT may result in termination of this Agreement by the CITY.

29. [RESERVED]

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the CONSULTANT. The decision of the CITY's Designated Representative shall be final and conclusive unless CONSULTANT requests mediation within ten (10) calendar days. Pending final decision of a dispute, the CONSULTANT shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. AUDIT.

CITY shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by CONSULTANT in preparing its billings to CITY as a condition precedent to any payment to CONSULTANT; or for other purposes relating to the Agreement. CONSULTANT will promptly furnish all documents requested by CITY. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit CONSULTANT for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, CONSULTANT shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by CITY, whichever occurs later. CONSULTANT shall maintain all such records in CITY or to promptly reimburse CITY for all reasonable costs incurred in conducting the audit at a location other than in CITY, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. CONSULTANT shall include a copy of this Section in all contracts with its subcontractors, and CONSULTANT shall be responsible for immediately

obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or CITY.

33. ADVERTISING AND PUBLICITY

CONSULTANT shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the CITY Manager. This Section shall survive the termination of this Agreement.

34. NONDISCRIMINATORY EMPLOYMENT.

CONSULTANT shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. CONSULTANT understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, CONSULTANT shall be responsible for such subcontractor's compliance with this Section.

35. FORCE MAJEURE.

Neither the CONSULTANT nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied

covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. CAPTIONS AND HEADINGS.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.

44. ACKNOWLEDGEMENT.

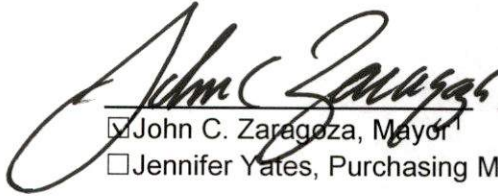
By signing below, CONSULTANT acknowledges that it has reviewed the CITY's CONSULTANT/Professional Services Agreement terms and conditions and insurance requirements and that CONSULTANT hereby agrees to full compliance.

[Signatures on next page]

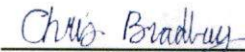
In witness whereof, the Parties have entered into this Agreement effective on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

ROESLING NAKAMURA TERADA
ARCHITECTS, INC.

 12-5-23
☒ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates, Purchasing Manager²

 10/19/2023
Chikako Terada, CEO Date

 Oct 19th, 2023
Christopher Bradbury, CFO³ Date

ATTEST:

 12/6/23
Rose Chaparro, CITY Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

 10/25/2023
Stephen M. Fischer, CITY Date
Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

SCOPE OF SERVICES

CITY PROJECT MANAGER FOR THIS AGREEMENT: Sian Bashkiroff / 805-271-2204 / sian.bashkiroff@oxnard.org

This work includes the development of plans, specifications, cost estimates, and bid documents for the OWTP New Maintenance Building Project (Project). The planning and design phase is expected to take approximately eight (8) months.

Task 1: Project Management

Consultant shall coordinate all efforts with the Project Team including representatives from the City. The project management's responsibilities include, but are not limited to:

Coordination. Consultant shall coordinate all of the services of sub-consultants including site visits, site inspections, and shall ensure coordination with the City operations and engineering staff and other interested parties as outlined by the City.

Schedule. Consultant shall develop a project schedule at the beginning of the project that covers preliminary design, recommendations, design drawings, specifications, construction cost estimate, bid documents, and bid/award support services. Project schedule shall be submitted with the proposal and shall be updated within two (2) weeks of the kickoff meeting.

Invoicing. The Consultant shall submit invoices on a monthly basis with all supporting documentation in a format acceptable to the City. Invoices requiring amendment shall be dated according to when the revised invoice is delivered to the City. Invoices shall be delivered electronically to the Project Manager and to pwinvoices@Oxnard.org.

Communication. Consultant shall develop a communications protocol to be followed by all team members to be submitted within one (1) week of starting the project. Communication protocol will include standard project communication as well as emergency communication protocols.

Reporting. Consultant shall prepare and distribute monthly reports.

Meetings.

Project Kick-off Meeting. At the commencement of the Project, the Consultant shall facilitate a "kick-off" meeting with the City's engineering and operations staff to discuss the scope and parameters of the Project. The Consultant shall prepare and distribute a draft agenda in advance of the meeting for review and comment by the City. The Consultant shall prepare and distribute meeting minutes within three (3) business days of the meeting. The Consultant shall assume three (3) hours for the kick-off meeting with staff members.

Progress Meetings. Consultant shall attend monthly meetings at the City for the duration of the project and budget for eight meetings. As part of the effort, the Consultant is responsible for developing meeting information and agenda prior to the meeting and meeting minutes within three (3) business days following the meeting with a complete action tracking log. The Consultant shall assume two (2) hours for each meeting.

Design Workshops/Charrettes. Consultant shall plan up to three (3) workshops/charrettes during the design phase.

Quality Assurance and Quality Control (QA/QC). The Consultant shall develop a QA/QC plan, to be followed for all submittals, within two (2) weeks of starting the project. The plan shall include the staff who are responsible for reviewing design and documentation as well as the means for integrating review comments from the City.

Task 2: Data Gathering, Site Visit, and Preliminary Investigations

The Consultant shall review and assess existing data and reports relative to the project and conduct all necessary site visits, investigations, and analyses required to identify and mitigate project issues that could impact or be impacted by the project including:

Regulatory and code requirements

Permitting, at a minimum:

Coastal Development Permit

Ventura County Air Pollution Control District

City of Oxnard Community Development Department

All permits deemed to be the responsibility of the City shall be obtained by the Consultant on the City's behalf. The City will provide payment for all permit fees

CEQA compliance

The Consultant shall perform and prepare all required CEQA documentation (i.e. CEQA checklist, initial study, notice of preparation, etc.) and supporting environmental information (i.e. Categorical Exemption, Negative Declaration, Environmental Impact Report, etc.)

Geotechnical investigation, including soil analysis as needed

Survey, mapping, and utility investigation

Consultant shall identify any other applicable project requirements not listed above.

Deliverable

Technical memo summarizing findings in this Task

Geotechnical report

Detailed survey report including digital files

Task 3: Schematic Design (SD) Phase (20%)

This phase of work will generate a refined site and building design for the project through an iterative process. With the information gathered during Task 2, create a schematic design for the project, including, but not limited to:

Design alternatives, (assume a minimum of three (3))

Architectural renderings and floor plans for the alternatives

Cost estimate for the alternatives

Final Schematic Design through workshops/charrettes

Preparation of preliminary plans and specifications for selected alternative

Preliminary LEED scorecard for selected alternative

Deliverable

Renderings, floor plans, and cost estimates for each alternative

Workshop/charrette presentations

Final Schematic Design package shall include schematic plans, renderings, and specifications (three (3) hard copies and digital files)

Task 4: Design Development (DD) Phase (50%)

Upon Project Team approval and acceptance of the Final Schematic Design, Consultant will commence with Design Development. This phase of work shall refine the design and identify all key construction systems, materials, and critical coordination issues. Design Development shall include, at a minimum:

Preparation of DD level (50%) plans, specifications, and details

Selection of key materials

Updated cost estimates

Updated LEED scorecard

Preliminary permit applications and CEQA documentation

Deliverable

Design Development package shall include plans and specifications (three (3) hardcopies and digital files).

Task 5: Construction Document (CD) Phase

Draft CD Design: Plans and specifications from the DD phase shall be updated based on comments received as a result of the DD review. The Draft CD design phase shall include:

Demolition plans

Architectural plans

Civil plans

Structural plans

Mechanical plans
Electrical plans
Instrumentation and control plans
Final plans
Final cost estimate
Final permit applications and CEQA documentation

Deliverable

Draft CD design package shall include plans, specifications, cost estimate, and permit application (three (3) hardcopies and digital files).

Final Design Submittal: During the final design phase, final comments from the Draft CD design submittal shall be incorporated into the plans and specifications. This final submittal will be reviewed by the City Community Development Department and once approved will be considered the bid set. Tasks include:

Production of final architectural and engineering plans
Production of final architectural and engineering specifications
100% Estimate of probable construction cost
Completed permit applications and CEQA documentation

Deliverable

Final plans shall be signed and sealed by a registered architect and professional engineer(s) registered by the State of California. The Consultant shall provide three (3) sets of 11" x 17" plans, three (3) sets of 36" x 48" (E Size) drawings, four (4) sets of specifications, and one (1) electronic copy in PDF format of the final design package for bid purposes.

Task 6: Bid Phase

The Consultant shall provide assistance to the City during the project advertisement and award period. Bid phase assistance shall include, at a minimum, the following:

Responses to requests for information (RFIs) and requests for clarification (RFCs) received during the bid period. Written responses to questions shall be submitted within two (2) business days of questions received during the bidding period. The responses shall be provided in short memorandum format with the question and response shown.

Attendance and participation in the mandatory pre-bid meeting.

Incorporation of all addenda issued during the Bid Period into a conformed set of contract documents. Review of all submitted bids.

Task 7: Construction Administration (CA) Phase

CA services shall include, at a minimum, the following:

Preconstruction Meeting: Attendance and participation in the Pre-Construction Meeting.

Project Progress Meetings: Attendance and participation in the Monthly Project Progress Meetings with the City and the Construction Manager to discuss the status of the Project and potential Project issues. The Consultant shall budget for eighteen (18) meetings.

Submittal Review: Consultant shall review and approve all shop drawing and material submittals transmitted by the construction contractor.

Change Order Review: Consultant shall review all change order requests submitted by the construction contractor. The Consultant shall review each request and make a formal statement regarding entitlement and the merit of the contractor's request.

Project Close-out: The Consultant shall assist in the development of Project punch lists and coordinate the delivery of all Project-related documentation.

Record Drawings: The Consultant shall prepare a record drawing set based on the red-line drawings submitted by the construction contractor. The record drawings shall be transmitted to the City within 30 calendar days of receipt of the contractor's red-line drawings. Copies of the record drawings shall be submitted to the City in both digital and PDF formats. In addition, the Consultant shall submit three (3) hard copies of the record drawings on 36" x 48".

Task 8: Scope and Program Verification, and Building Commission

Scope and Program Verification: This task will confirm appropriate scope and priorities for the project. This task will run concurrently with Task 2 Data Gathering, as some of the data will help to inform decisions on the project's direction. Engineering subconsultant input is excluded from this task. Task includes confirmation of square foot budgetary costs by cost consultant.

Review of City's Program

Up to 2 meetings to verify program requirements with City Staff, including: personnel and departments to be accommodated, budget, functional and operational requirements, quality requirement, time constraints, maintenance requirements, contextual considerations, equipment to be accommodated, adjacency requirements within building, resource conservation goals, occupant health goals, anticipated use of existing building to remain, extents of site improvements, adjacency and circulation requirements on the site, and future planning / risk mitigation considerations. Verify

scope of work with respect to audiovisual, security, IT, and any other low voltage requirements. Verify which systems and whether fixtures, finishes and equipment will be design-build or owner furnished/owner installed.

Draft updated program for City comment, summarizing City's program requirements

Final updated program based on City comments

Deliverable

Program spreadsheet and adjacency diagram

Commissioning: Commissioning will be provided by personnel at the mechanical engineering firm who are not otherwise involved on the project. The design team will provide coordination, Basis of Design, and response for commissioning agent comments. Architect and Commissioning Agent assistance to aid Owner in developing Owner's Project Requirements as required for Commissioning process (occurs during Task 8 Scope and Program Verification)

Basis of Design (occurs during Task 3 Schematic Design phase) produced by design team and reviewed by Commissioning Agent

Commissioning Plan (developed by Commissioning Agent during Task 4 Design Development and Task 5 Construction Documents)

Commissioning Specifications (developed by Commissioning Agent during Task 5 Construction Documents)

Drawing Review at Schematic, Design Development, and 90% Construction Documents. Performed by Commissioning Agent, to verify compliance with Owner's Project Requirements. Issues noted in writing and addressed by design team prior to next submittal.

Commissioning documents for Permit Submittal and updates based on plan check corrections

Document management and process control, including submittal review of commissioned systems by the commissioning agent

Site visits and meetings by commissioning agent during construction (limited to 16 visits)

Functional performance testing and witnessing, with log of issues noted and resolutions reached, by commissioning agent.

Final Commissioning Report by commissioning agent.

Deliverable

Basis of Design, Commissioning Plan, Commissioning Schedule, Issues Log, Final Commissioning Report

EXHIBIT B

**CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)**

SCHEDULE OF COMPENSATION

ROESLING NAKAMURA	
Position	Hourly
Principal	\$285
Project Manager	\$245
Project Architect	\$210
Principal Designer	\$210
Drafter	\$160
Administrative	\$110

ECG CIVIL – CIVIL ENGINEERING	
Position	Hourly
Principal	\$210
Senior II	\$190
Senior I	\$175
Associate	\$160
Assistant	\$135
2-Man Survey Crew	\$280
Administrative	\$80

ASHLEY VANCE – STRUCTURAL	
Position	Hourly
Principal in Charge	\$225
Senior Project Manager	\$185
Project Engineer	\$150

BMA- MECHANICAL / PLUMBING	
Position	Hourly
Principal Engineer (Mechanical)	\$255
Project Manager	\$168
Project Engineer (Plumbing)	\$140
Designer	\$120
Energy Analyst	\$140

THOMA – ELECTRICAL / SPECIALIZED EQUIPMENT	
Position	Hourly
Electrical Engineer of Record	\$223
Project Manager	\$195
Design Assistant	\$139

JACOBUS & YOUNG – COST MANAGEMENT	
Position	Hourly
Principal	\$196.73
Senior Estimator	\$133.39
Estimator	\$98.37

GEOSYNTEC – GEOTECH & AIR COMPLIANCE	
Position	Hourly
Principal	\$294
Senior Project Manager	\$254
Staff Field Personnel	\$178

ENVIRONMENTAL - LSA	
Position	Hourly
Principal	\$290
Project Manager	\$195
Technical Associate	\$195
Senior Planner	\$150
Assistant Planner and Support	\$125

265

Task/ Subtask Subtotal	Architectural					ECG Civil - Civil Engineering							Ashley Vance - Structural					BMA - Mechanical/Plumbing					Thoma - Electrical				Jacobus & Young - Civil Management			Geosyntec- Geotech & Air Compliance				Environmental - USA							
	Principal	Project Manager	Project Architect	Principal Designer	Draftsman	Principal	Senior I	Senior I	Associate	Assistant	2-Man Survey	Admin	Principal In Charge	Senior Project Engineer	Project Engineer	Principal Engineer / O.A.	Project Manager	Project Engineer	Designer / Project O.A.	Energy Analyst	Electrical Engineer / Record	Project Manager	Design Assistant	Principal	Senior Estimator	Estimator	Principal	Sr. PM	Staff, Field Personnel	Principal	Project Manager	Technical Associate	Senior Planner	Assistant Planner and Support							
	\$ 285	\$ 245	\$ 230	\$ 230	\$ 180	\$ 230	\$ 190	\$ 175	\$ 160	\$ 135	\$ 280	\$ 80	\$ 225	\$ 185	\$ 150	\$ 255	\$ 168	\$ 140	\$ 130	\$ 140	\$ 223	\$ 195	\$ 139	\$ 196.73	\$ 133.39	\$ 98.37	\$ 254	\$ 254	\$ 178	\$ 290	\$ 195	\$ 195	\$ 150	\$ 125							
Task 8: Scope and Program Verification, and Building Commissioning					\$ 25,415						42,747										6,340																				
Sub-Total Fee	\$74,811	\$ 3,420 \$ 12,005 \$ 9,050 \$ 9,050 \$ 960										\$ 11,475 \$ 4,082 \$ 27,240 \$ 590									\$ 2,587 \$ 3,201 \$ 630																				
8.1.1 Review CDR Program	48	1	4	1	0	0	0	0	0	0	0	0	0	0	0	46	24	0	227	0	0	0	0	13	24	6	0	0	0	0	0	0	0	0							
8.1.2 Program Review Meetings (2 meetings)	6	2	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	24	6	0	0	0	0	0	0	0	0							
8.1.3 Draft Updated Program	30	2	8	20	0	0	0	0	0	0	0	0	0	0	0	1	2	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.1.4 Final Updated Program	18	2	2	4	0	0	0	0	0	0	0	0	0	0	0	2	1	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.1 Owner's Project Requirements for Commissioning	20	1	2	2	0	0	0	0	0	0	0	0	0	0	0	2	1	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.2 Basis of Design	30	2	8	20	0	0	0	0	0	0	0	0	0	0	0	2	1	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.3 Commissioning Plan	24	2	2	4	0	0	0	0	0	0	0	0	0	0	0	4	1	0	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.4 Commissioning Specifications	28	1	1	1	0	0	0	0	0	0	0	0	0	0	0	4	1	0	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.5 Drawing Review by Commissioning Agent (3 reviews during design) and incorporation of comments	34	1	8	4	4	0	0	0	0	0	0	0	0	0	0	6	2	0	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.6 Commissioning Plan check Documents for Permit	20	1	1	1	0	0	0	0	0	0	0	0	0	0	0	4	4	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.7 Commissioning Document Mgmt and Process Control	40	2	2	4	0	0	0	0	0	0	0	0	0	0	0	2	4	0	32	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.8 Site visits and Meetings by Commissioning Agent (max 16)	80	4	4	4	0	0	0	0	0	0	0	0	0	0	0	8	4	0	64	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.9 Functional Performance Testing and Witnessing	48	4	4	4	0	0	0	0	0	0	0	0	0	0	0	8	2	0	32	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
8.2.9 Final Commissioning Report	20	2	2	4	0	0	0	0	0	0	0	0	0	0	0	4	2	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							
Fee Sub Total	\$927,408	\$93,965										\$78,480					\$71,170					\$115,452				\$48,913				\$5,094			\$46,788				\$125,525				
Reimbursable Expense Allowance	\$6,000	\$6,000																																							
CONSULTANT FEE	\$945,408	\$401,965										\$79,480					\$71,170					\$115,452				\$48,913				\$5,094			\$46,788				\$125,525				
CONSULTANT MARKUP	\$54,142											\$7,948					\$7,117					\$11,545				\$4,891				\$5,094			\$4,679				\$12,553				
Architectural and Engineering	\$765,095																																								
Geotechnical/ Environmental	\$177,313																																								
TOTAL FEE/Task 1-8	\$999,751																																								

EXHIBIT C

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/SERVICE PROVIDER/SELLER/BIDDER (hereafter referred to as "CONSULTANT") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

Exhibit INS-A

INSURANCE REQUIREMENTS FOR CONSULTANTS (WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of \$1,000,000. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant;

premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date 7/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

10/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER A

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

INS-A.doc

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
Telephone:		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
NAMED INSURED		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE ☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER		OTHER PROVISIONS	
LIMIT OF LIABILITY \$ _____ per accident, for bodily injury and property damage.		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: (_____) _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows: 1. INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1). Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 462500-4299 US		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: (_____) _____ Date Signed _____	

EXHIBIT D

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)**

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional services contracts that may be governed by the Living Wage Policy.

A. CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, CONSULTANT shall pay such employee no less than \$18.89 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. CONSULTANT agrees to post, at a location readily accessible to those employees providing services to the CITY, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If CONSULTANT fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to CONSULTANT, effective immediately.

D. In addition, if CONSULTANT fails to comply with the Living Wage Policy in any manner, CONSULTANT shall pay to CITY a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. CONSULTANT shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to CONSULTANT of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2023**

CONSULTANT shall compensate any employee of CONSULTANT who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, CONSULTANT shall pay such employee no less than \$18.89 per hour for each hour that such employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, CONSULTANT shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. CONSULTANT agrees to post, at a location readily accessible to those employees providing services to the CITY, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If CONSULTANT fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to CONSULTANT, effective immediately.

c. In addition, if CONSULTANT fails to comply with the Living Wage Policy in any manner, CONSULTANT shall pay to CITY a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. CONSULTANT shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to CONSULTANT of the amount owed.

EXHIBIT E

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)**

PREVAILING WAGE

1. CONSULTANT acknowledges that the Project defined in the Agreement between CONSULTANT and CITY is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. CONSULTANT shall perform the Project as a public work. CONSULTANT shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. CONSULTANT acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and CONSULTANT shall post such rates at each job site covered by this Agreement.
3. CONSULTANT is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).
4. CONSULTANT shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. CONSULTANT shall, as a penalty to CITY, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by CONSULTANT or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. CONSULTANT shall comply with Labor Code Section 1776, which requires CONSULTANT and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform CITY of the location of the records.
6. CONSULTANT shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, CONSULTANT shall provide CITY with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, CONSULTANT and each of its subcontractors shall submit to CITY a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. CONSULTANT may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, CONSULTANT must immediately notify CITY.

8. CONSULTANT is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. CONSULTANT shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.

9. CONSULTANT acknowledges that 8 hours labor constitutes a legal day's work. CONSULTANT shall comply with and be bound by Labor Code Section 1810.

10. CONSULTANT shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. CONSULTANT shall, as a penalty to CITY, forfeit \$25 for each worker employed in the performance of this Agreement by CONSULTANT or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by CONSULTANT's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. CONSULTANT shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. CONSULTANT shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. CONSULTANT shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, CONSULTANT shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, CONSULTANT shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify CITY, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including CONSULTANT, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys'

fees and other related costs. All duties of CONSULTANT under this Section shall survive Agreement termination.

EXHIBIT F

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)**

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)**

Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete one of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):
Roesling Nakamura Tarada Architects, Inc,

Federal ID Number (or n/a):
33-0267288

By (Authorized Signature):

Chris Bradbury

Printed Name & Title of Person Signing:
Christopher Bradbury, CFO

Date Executed
Oct 23rd, 2023

Executed in the County of **Ventura**

in the State of **California**

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.1

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Annual Enterprise Pavement Impact Cost Reimbursement Study. (10 minutes)

RECOMMENDATION

That the City Council receive and file the Annual Enterprise Pavement Impact Cost Reimbursement Study.

(Public Works and Transportation Committee approved 3-0 on February 11, 2025.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/dwl-Epu0Lbo>

BACKGROUND

The City has approximately 1,037 lane miles of streets, or roughly 95.5 million square feet, with an estimated replacement value of \$989 million. Three of the City's enterprise funds (solid waste, water, and wastewater) that operate within the city limits utilize the City's streets for portions of their operations to varying degrees. Consistent with a 2014 Enterprise Fund Allocation Study ("2014 IUF Study"), the City had been transferring funds from utility accounts to the General Fund referred to as an Infrastructure Use Fee (IUF) transfer.

The City was party to a lawsuit, Court Case 56-2017-00494475-CU-WM-VTA ("Court Case"), in which the validity of the City's IUF transfer from enterprise accounts to the General Fund was questioned. In the Court Case, the 2014 IUF Study was deemed inadequate via a judgment entered into on July 13, 2021 ("Judgment"), which is attached for reference. As such, subsequent to the Judgment, the City took measures to reduce the utility rates associated with the three enterprise funds, removing the IUF component, effective September 2021 (see attached staff report for reference). Additionally, the City provided ratepayers credits on utility bills and the General Fund reimbursed the utility funds.

The Judgment states, "...[the] ruling is without prejudice to the City's establishment of an IUF transfer methodology which reasonably represents the actual cost to the City's public safety, governmental agency, and streets and roadways maintenance funds of providing water, wastewater, and solid waste disposal services to property owners." The Judgment further states, "Article XIII D does not prevent City from charging an IUF to cover such indirect costs."

City staff originally anticipated the need to take an updated IUF study back to the judge pursuant to the interpretation of the language in the Judgment. However, at a Case Management Conference in November 2024, the judge indicated that an updated IUF study did not need to be returned for review/action.

DISCUSSION

The activities of the water, wastewater, and environmental resources enterprise funds damage the City's streets in a way that may be isolated and quantified. As such, consistent with the Judgment, the City is authorized to account for these costs in an updated IUF. The Judgment states:

“The Court’s findings and conclusion above are without prejudice to the City, at some point going forward, creating a credible and reasonable means of itemizing or estimating the indirect costs of providing public safety, general governmental, and streets and roadways maintenance services attributable to its provisions of water, wastewater and solid waste disposal utility services. The most rudimentary understanding of accounting leads to the conclusion that both direct and indirect costs are capable of being calculated or estimated reasonably. The Court’s conclusion that the City failed to do so in this action should in no way be construed as a barrier to City doing so in the future.”

The City hired a consultant (Bartle Wells Associates) to prepare an updated IUF study. Attached is the final IUF study, titled Annual Enterprise Pavement Impact Cost Reimbursement Study (“Study”). The focus of this Study is to analyze and quantify the annual damages to the City’s streets caused by the utilities and to determine the annual compensation the City should receive through a transfer to the General Fund. The annual damage to the City’s streets that is caused by the utilities each year is connected to the respective enterprises’ use of the streets. The water and wastewater enterprises damage the streets while installing and making infrastructure repairs. The solid waste enterprise causes excessive damage by its constant use of heavy equipment on roadways that are not designed and constructed to handle its vehicles. This Study focuses on quantifiable impacts with supporting data on the damages to the City’s roadways caused by the uniquely impactful use of the City’s roadways by the water, wastewater, and solid waste enterprises for the benefit of utility customers. Unlike the 2014 IUF Study, this new report does not include an analysis of public safety or governmental facilities.

Here is a summary of the roadway analysis:

Water and Wastewater - This Study quantifies the portion of roadway degradation caused by the water and wastewater enterprises by using the results of a field survey of City streets to calculate the actual reduction in the Pavement Condition Index (PCI) attributable to the visible trench patches made by the water and wastewater enterprises. When the water and wastewater enterprises access their underground infrastructure in the streets, their repair method includes utility patches in the asphalt, which in turn reduces the durability and structural integrity of the roadway asphalt.

Solid Waste - The solid waste enterprise’s damage to the streets is quantified by 1) identifying the actual amount of vehicle wear the City streets are designed to withstand, then 2) calculating the portion of that damage caused by the solid waste enterprise based on the actual weight of solid waste trucks, the actual area impacted by solid waste routes, and frequency of solid waste collections.

The Study was peer-reviewed by a third-party consultant, specifically Debaroti Ghosh, PhD and Margot Yapp, PE with Nichols Consulting Engineers (NCE). The peer-review team concluded that the process presented in the Study represents a conservative yet valid approach to present the financial damage to the City’s street.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

There is no fiscal impact associated with receiving and filing this report. The Study estimates the total amount of the new Infrastructure Use Fee (IUF) at approximately \$2.1 million per year, with the following breakdown by enterprise funds: Water – \$55,859; Wastewater – \$35,713; and Solid Waste – \$2,048,468. The solid waste rates approved by the City Council in April 2024 include an IUF component, while the water rates approved in May 2023 did not. Staff recommends incorporating the IUF into the next analysis of water rates. Currently, staff and a third-party consultant are reviewing the wastewater rates, and the updated IUF from the Study will be included in that analysis. Any necessary budget adjustments will be addressed through the annual budgeting process.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on February 11, 2025, to approve the staff recommendation and to forward the item for the City Council to receive and file.

Prepared by: Michael Wolfe, Public Works Director

ATTACHMENTS

1. Judgment Court Case 56-2017-00494475-CU-WM-VTA
2. September 7, 2021 Staff Report - Infrastructure Use Fee Refund and Utility Rate Reduction
3. Annual Enterprise Pavement Impact Cost Reimbursement Study
4. Peer Review Memorandum
5. Presentation

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Eric J. Benink, Esq. #187434

Benink & Slavens, LLP

8885 Rio San Diego Drive, Suite 207

San Diego, CA 92108

TELEPHONE NO.: 619-369-5252

FAX NO. (Optional) 619-369-5253

E-MAIL ADDRESS (Optional): eric@beninkslavens.com

ATTORNEY FOR (Name): Petitioner Aaron Starr, an individual

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Ventura

STREET ADDRESS: 800 South Victoria Ave.

MAILING ADDRESS: 800 South Victoria Ave.

CITY AND ZIP CODE: Ventura, CA 93009

BRANCH NAME: Hall of Justice

PLAINTIFF/PETITIONER: Aaron Starr, an individual

DEFENDANT/RESPONDENT: City of Oxnard, a general law city

NOTICE OF ENTRY OF JUDGMENT
OR ORDER

(Check one):



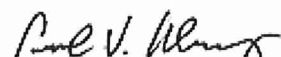
UNLIMITED CASE

(Amount demanded
exceeded \$25,000)

LIMITED CASE

(Amount demanded was
\$25,000 or less)Electronically
FILEDby Superior Court of California
County of Ventura

07/20/2021

Brenda L. McCormick
Executive Officer and Clerk
Cristal Alvarez
Deputy Clerk

CASE NUMBER:

56-2017-00494475-cu-wm-vta

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): ~~July 14, 2021~~ July 13, 2021
2. A copy of the judgment, decree, or order is attached to this notice.

Date: July 20, 2021

Eric J. Benink, Esq.

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

PLAINTIFF/PETITIONER: Aaron Starr, an individual	CASE NUMBER: 56-2017-00494475-CU-WM-VTA
DEFENDANT/RESPONDENT: City of Oxnard, a general law city	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

8885 Rio San Diego Drive, Suite 207
San Diego, CA 92108

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (*check one*):
- a. ☐ deposited the sealed envelope with the United States Postal Service.
 - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
3. The *Notice of Entry of Judgment or Order* was mailed:
- a. on (*date*): July 20, 2021
 - b. from (*city and state*): San Diego, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served:
Holly O. Whatley, Esq. / Jon R. Di Cristina, Esq.
Street address: 790 E. Colorado Blvd., Ste. 850
City: Pasadena,
State and zip code: CA 91101-2109

c. Name of person served:

Street address:
City:
State and zip code:

b. Name of person served:

Street address:
City:
State and zip code:

d. Name of person served:

Street address:
City:
State and zip code:

☐ Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

5. Number of pages attached 36.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 20, 2021

Robin Griffin

(TYPE OR PRINT NAME OF DECLARANT)

► 

(SIGNATURE OF DECLARANT)

RECEIVED

VENTURA SUPERIOR COURT

06/21/21

VENTURA
SUPERIOR COURT
FILED

JUL 13 2021

BRENDA L. McCORMICK
Executive Officer and Clerk

By: _____, Deputy

ELIZABETH MULLER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

AARON STARR, an individual;

Petitioner and Plaintiff,

v.

CITY OF OXNARD, a general law city; and
DOES 1-10,

Respondent and Defendant.

Case No.: 56-2017-00494475-CU-WM-VTA

*Assigned for all purposes to Hon. Matthew P.
Guasco*

~~[PROPOSED]~~ SECOND AMENDED FINAL
JUDGMENT

Complaint Filed: March 27, 2017

Dept.: 20

This matter came before the Court on October 1, 2020 at 8:20 a.m. in Department 20 of the Superior Court of California, for the County of Ventura, the Honorable Matthew P. Guasco presiding, as a hearing on a Petition for Writ of Mandate and Prohibition ("Petition") of Petitioner and Plaintiff Aaron Starr ("Starr") and against Respondent City of Oxnard ("City"). The Court also heard Starr's causes of action for declaratory relief and injunctive relief. Appearing for Starr was Eric J. Benink, Esq. and appearing for the City was Holly O. Whatley, Esq. On December 28, 2020, the Court issued a Tentative Decision and Proposed Statement of Decision and Judgment. On January 14, 2021, the Court issued a Final Statement of Decision and Judgment ("Statement of Decision") and on March 23, 2021, the Court entered an Amended Final Judgment.

On May 13, 2021, the Court heard the City's Motion to Amend Judgment. On June

1 14, 2021, the Court issued a ruling granting, in part, the motion.

2 The Court, having carefully reviewed and considered the pleadings, the evidence
3 presented by the parties, the matters subject to judicial notice, and the arguments of counsel,
4 and based on the Findings of Fact and Conclusions of Law set forth in the Final Statement
5 of Decision and incorporated by reference herein, hereby ORDERS, ADJUDGES, and
6 DECLARES that JUDGMENT is entered as follows:

7 (1) The Court hereby enters JUDGMENT in favor of Starr and against City on the
8 Petition to the extent set forth in the Findings of Fact and Conclusions of Law in the Final
9 Statement of Decision filed on January 14, 2021, a true and correct copy of which is attached
10 hereto as Exhibit A.

11 (2) The Court hereby enters its JUDGMENT GRANTING Starr's Petition for Writ
12 of Mandamus and/or Prohibition against City to the extent set forth in the Findings of Fact and
13 Conclusions of Law in the Final Statement of Decision.

14 (3) The Court hereby enters its WRIT OF PROHIBITION directing City to
15 immediately cease and desist imposing the embedded Infrastructure Use Fees ("IUF") in the
16 rates paid by water, waste water, and solid waste disposal ratepayers, WITHOUT
17 PREJUDICE to City developing and implementing a credible and reasonable means of
18 complying with California Constitution, article XIII D, section 6, subdivisions (b)(1), (2), and
19 (5) of the California Constitution which rectifies the errors and omissions set forth in the
20 Findings of Fact and Conclusions of Law in the Final Statement of Decision.

21 (4) The Court hereby enters its WRIT OF PROHIBITION directing City to
22 immediately cease and desist transfers of IUFs from the water, waste water, and solid waste
23 disposal utility operating budgets to City's General Fund, Street Maintenance Fund, or any
24 other fund controlled by City, WITHOUT PREJUDICE to City developing and implementing
25 a credible and reasonable means of complying with article XIII D, section 6, subdivisions
26 (b)(1), (2), and (5), which rectifies the errors and omissions set forth in the Findings of Fact
27 and Conclusions of Law in the Final Statement of Decision. (See *Citizens for Fair REU Rates*
28 *v. City of Redding* (2018) 6 Cal.5th 1, 237 Cal.Rptr.3d 179, 424 P.3d 268.)

(5) The Court hereby enters its WRIT OF MANDATE directing City to reimburse to the water, waste water, and solid waste disposal utility operating budgets the total sum of all IUF transfers made to the General Fund and Street Maintenance Fund for fiscal years 2014-2015 (beginning March 27, 2014), 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021. The Court intends this aspect of its writ of mandamus and prohibition to restore the status quo ante as to IUF transfers beginning no earlier than March 27, 2014. For the reasons set forth in the Court's June 14, 2021 ruling, a true and correct copy of which is attached hereto as Exhibit B and incorporated herein by reference, the City shall reimburse \$36,470,697 to the water, waste water, and solid waste disposal utility operating budgets from the City's General Fund and Street Maintenance Fund on the following schedule:

(a) Fiscal Year 2021-2022: A total of \$12 million over four equal quarterly installments to be made on the first date of the beginning of each quarter.

(b) Fiscal Year 2022-2023: A total of \$12 million over four equal quarterly installments to be made on the first date of the beginning of each quarter.

(c) Fiscal Year 2023-2024: A total of \$12,470,697 over four equal quarterly installments to be made on the first date of the beginning of each quarter.

The issuance of this WRIT OF MANDATE is WITHOUT PREJUDICE to City developing and implementing a credible and reasonable means of complying with article XIII D, section 6, subdivisions (b)(1), (2), and (5), which rectifies the errors and omissions set forth in the Findings of Fact and Conclusions of Law in the Final Statement of Decision. (See *Citizens for Fair REU Rates v. City of Redding, supra*, 6 Cal.5th 1, 237 Cal.Rptr.3d 179, 424 P.3d 268.)

(6) The Court issues its ORDER of PERMANENT INJUNCTION consistent with the WRITS OF MANDATE AND PROHIBITION set forth above. This PERMANENT INJUNCTION is WITHOUT PREJUDICE to City developing and implementing a credible and reasonable means of complying with article XIII D, section 6, subdivisions (b)(1), (2), and (5), which rectifies the errors and omissions set forth in the Findings of Fact and Conclusions

1 of Law in the Final Statement of Decision. (See *Citizens for Fair REU Rates v. City of*
2 *Redding, supra*, 6 Cal.5th 1,237 Cal.Rptr.3d 179, 424 P.3d 268.)

3 (7) The Court hereby enters its DECLARATORY JUDGMENT in favor of Starr
4 and against City as follows:

5 (a) The IUF embedded charges and transfers at issue here violate article XIII
6 D, section 6, subdivisions (b)(1) and (2), which prohibit "use fees or charges that exceed the
7 funds required to provide the property related service" and that are "used for any purpose other
8 than that for which the fee or charge was imposed."

9 (b) The IUFs violate article XIII D, section 6, subdivision (b)(5), because they
10 are and have been used "for general governmental services including, but not limited to,
11 police, fire, ambulance or library services, where the service is available to the public at large
12 in substantially the same manner as it is to property owners."

13 (8) The Court hereby awards costs of suit to Starr and against City in an amount to
14 be determined by a timely served and filed cost memorandum in conformity with the Code of
15 Civil Procedure and the California Rules of Court.

16

17 ///

18

19 ///

20

21 ///

22

23 ///

24

25 ///

26

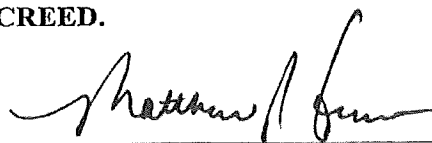
27 ///

28

1 The Court reserves jurisdiction to enforce, modify, or vacate the above JUDGMENT,
2 WRIT OF MANDATE AND PROHIBITION, and PERMANENT INJUNCTION. This
3 reservation of jurisdiction includes, but is not limited to, a later evidentiary hearing and
4 adjudication, if necessary, concerning the extent to which, if at all, City rectifies the errors
5 and omissions set forth in the above Findings of Fact and Conclusions of law concerning
6 implementation of IUFs and IUF transfers, as well as concerning any necessary adjustments
7 or modifications to the WRIT OF MANDATE directing reimbursement of IUFs to the
8 respective utility services funds in compliance with article XIII D, section 6, subdivisions (b)
9 (1), (2), and (5). Any such later evidentiary hearing and adjudication shall be upon noticed
10 motion in conformity with the Code of Civil Procedure and the Rules of Court.

11
12 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

13
14 DATED: JUL 11 2021

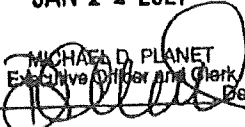


Hon. Matthew P. Guasco
Judge of the Superior Court

EXHIBIT A

VENTURA
SUPERIOR COURT
FILED

JAN 14 2021

MICHAEL D. PLANET
Executive Officer and Clerk Deputy
BY: 
D. ARREOLA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

AARON STARR, an individual,) Case No.: 56-2017-00494475-CU-WM-VTA
Petitioner and Plaintiff,)
vs.) **FINAL STATEMENT OF DECISION**
AND JUDGMENT
CITY OF OXNARD, a general law city; and)
DOES 1-10,)
Respondent and Defendant.)

On October 1, 2020, at 8:20 a.m., the matter came before the Court for a hearing on the Petition for Writ of Mandamus and Prohibition of petitioner, Aaron Starr ("Starr"), against respondent, the City of Oxnard ("City"), challenging the establishment and use of so-called Infrastructure Use Fees ("IUF"s) embedded in the rates City charges its residents for water, waste water (sewer), and solid waste disposal ("Environmental Resources" or garbage/trash) utility services operated by City. The Petition is brought pursuant to Propositions 13, 26, and 218, as embodied in California Constitution, articles XIII C and XIII D. The central issue in this action is whether the IUFs constitute a prohibited tax (which may be implemented only upon a vote of City's residents) or a permitted fee for utility services (which is not subject to the vote requirement).

The parties appeared as set forth in the Clerk's minutes. The record consists of the declarations and exhibits submitted in support of and opposition to the petition, including matters as to which the Court takes judicial notice. The Court received and considered briefing and oral arguments in support of and opposition to the Petition. The parties timely made an oral request for a Statement of Decision. At the conclusion of the arguments, the Court took the matter under submission.

On December 28, 2020, and pursuant to Code of Civil Procedure section 632, the Court entered its Tentative Decision and Proposed Statement of Decision in this matter. The Court directed that the Tentative Decision and Proposed Statement of Decision shall become the Court's Final Statement of Decision and Judgment in this case, subject to the parties' rights to timely object and make further proposals concerning same pursuant to California Rules of Court, rule 3.1590. The Court has not received any objections or proposals concerning the Proposed Statement of Decision within the time set forth in rule 3.1590. Accordingly, the Court adopts its Proposed Statement of Decision as its Final Statement of Decision and Judgment, with the exception of the correction of a minor clerical error at section (5) of the Judgment, page 21, line 27, to page 22, line 1.¹

INTRODUCTION

Propositions 13, 26, and 218 collectively amend the California Constitution to prohibit municipalities from enacting special taxes in the guise of use fees or surcharges without voter approval. Thus, a municipality may charge its residents a use fee only if it does not exceed the sum required to provide property-related services. Additionally, revenues derived from a use fee shall not be used for any purpose other than that for which the fee is imposed. Municipalities may not impose use fees to subsidize general government services, including police, fire,

¹ The Court changes "March 27, 2017" to "March 27, 2014," as well as adding "2017-2018," to conform to the Court's findings, conclusions concerning the earliest date upon which IUFs and IUF transfers began for purposes of the Court's Judgment.

1 ambulance, or streets and roads, where the services are available to the public at large to the
 2 same extent as they are to property owners. Use fees must reflect the reasonable cost to the
 3 municipality for the property-related services provided. Municipalities are permitted broad
 4 leeway in reasonably estimating the actual cost of providing services to property owners for
 5 purposes of substantiating constitutionally-permissible use fees. Use fees which do not meet
 6 these constitutional standards are invalid unless they were approved by the voters.

7 Here, Starr, a resident and taxpayer of City, brings a petition for writ of mandamus and/or
 8 prohibition alleging that City has violated articles XIII C and XIII D of the California
 9 Constitution by charging residents with a use fee – the IUF at issue – for water, waste water, and
 10 solid waste disposal services. The IUFs were not approved by a vote of City’s residents. Starr
 11 argues that the IUFs exceed the reasonable sum associated with providing the respective services
 12 to property owners. Further, Starr argues that City has transferred IUF fees from the utility
 13 services’ budgets to City’s general fund in sums exceeding the reasonable cost City bears in
 14 subsidizing the utility services.

15 The period during which these constitutional violations are alleged to have occurred is
 16 beginning in the 2014-2015 fiscal year through June 30, 2017, as to IUF transfers to the public
 17 safety and governmental agency funds, and from the 2014-2015 fiscal year to the present as to
 18 IUF transfers to the streets and roadways maintenance fund. Starr challenges over \$34 million in
 19 IUF transfers made from the water, waste water, and solid waste disposal budgets to the public
 20 safety, governmental agency, and streets and roadways maintenance funds.

21 City argues that its methodology for calculating and implementing the IUF transfers is
 22 sound and reasonably represents the cost to the public safety, governmental agency and streets
 23 and roadways maintenance budgets associated with providing residents with water, waste water,
 24 and solid waste disposal utility services. City relies principally on a cost-of-service study
 25 provided by a consultant in 2012 to support City’s calculation of the percentages upon which the
 26 IUF transfers are premised.

27 For the reasons stated below, the Court finds in favor of Starr and against City on the
 28 Petition. The Court finds City has failed to meet its burden of proving that the IUF transfers

1 reasonably represent the cost to City's public safety, governmental agency and streets and
2 roadways maintenance budgets of providing water, waste water and solid waste disposal utility
3 services to property owners. Accordingly, the Court GRANTS Starr's Petition for Writ of
4 Mandate and Prohibition IN PART: the Court enters its Writ of Prohibition enjoining City from
5 transferring IUF revenue to its public safety, governmental agency, and streets and roadway
6 maintenance funds based upon the current methodology. Further, the Court enters its Writ of
7 Mandamus directing City to restore to the respective utility funds all IUF monies transferred to
8 the public safety, governmental agency, and streets and roadway funds for the period from fiscal
9 year 2014-2015 (beginning March 27, 2014) through and including the current fiscal year. The
10 Court enters its Declaratory Judgment that the IUFs violate Article XIII D, section 6,
11 subdivisions (b) (1), (2), and (5). The Court enters its Permanent Injunction to the extent
12 consistent with the Courts issuance of its Writs of Mandate and Prohibition.

13 The above ruling is without prejudice to City's establishment of an IUF transfer
14 methodology which reasonably represents the actual cost to City's public safety, governmental
15 agency, and streets and roadways maintenance funds of providing water, waste water and solid
16 waste disposal services to property owners. It is possible there are indirect costs incurred by City
17 providing these services which are attributable to City's providing water, waste water, and solid
18 waste disposal utility services to property owners which are not paid for by rate revenue. Article
19 XIII D does not prevent City from charging an IUF to cover such indirect costs. The Court
20 simply finds that City has failed to prove its current method of calculating IUF transfers
21 complies with Article XIII D.

22 The Court DENIES the Petition IN PART to the extent of Starr's claims for rescission of
23 City's ordinances establishing the IUF transfer process and the Vehicle Code claim. The Court
24 finds these claims are not supported by the law or the evidence. In particular, while the Court can
25 declare City's ordinances to be unconstitutional to the limited extent identified above, the Court
26 is without any authority to rescind City's duly enacted ordinances. Further, for reasons stated
27 below, the Court finds the IUF transfers do not implicate or violate Vehicle Code section 9400.8.

1 The Court exercises its discretion to decline to bifurcate the issue of remedies contrary to
2 the tentative indication the Court gave the parties at the hearing on the Petition. After further
3 thought and reflection, including a careful review of the record and the parties' arguments, the
4 Court concludes there is no need for a further hearing concerning the appropriate remedy(ies) in
5 light of the Court's Orders granting the Petition in part and issuing its Declaratory Judgment and
6 Writs of Mandate and Prohibition, including the entry of a Permanent Injunction.

7
8 **REQUEST FOR JUDICIAL NOTICE**

9
10 The Court GRANTS Starr's request for judicial notice of public records reflecting City's
11 fiscal year 2019-2020 annual budget. (Evid. Code, § 452, subd. (c) and (h).)

12
13 **EVIDENTIARY OBJECTIONS**

14
15 The Court SUSTAINS Starr's objections 1 and 2 to the declaration of Christine Williams
16 and accompanying Exhibit A to City's Compendium of Exhibits in Support of Opposition to the
17 Petition. The documents comprising Exhibit A are hearsay without any identifiable exception or
18 foundation.

19
20 **STARR'S OBJECTION TO OPINION TESTIMONY OF JOHN FARNKOPF, P.E.**

21
22 Starr objects to the Court's consideration of expert opinions by John Farnkopf, P.E., the
23 principal consultant who created the IUF transfer methodology which is the sole basis upon
24 which City opposes the Petition. A timely demand for the exchange of expert witness
25 information occurred in this action. Accordingly, each party was required to timely exchange
26 expert witness information in conformity with Code of Civil Procedure section 2034.260. City
27 did not designate Farnkopf as an expert witness.
28

1 The Court finds that the methodology Farnkopf and his team created for City to use in
 2 implementing the IUF transfer process at issue consists of information and concepts well beyond
 3 the common understanding of lay persons. Accordingly, Farnkopf's opinions as reflected in the
 4 consultant's report at issue, as well as those stated in his declaration and deposition testimony,
 5 constitute expert opinion within the meaning of Evidence Code section 801.

6 The Court, therefore, SUSTAINS Starr's objection to Farnkopf's expert opinion
 7 testimony in support of City's defense to the Petition. (Code of Civ. Proc., §2034.300.) The
 8 Court GRANTS Starr's motion to exclude that opinion testimony from the Court's consideration
 9 of the evidence offered by City. Additionally, the Court excludes from its consideration the
 10 consultant's report upon which the IUF methodology is premised. (Pet. Ex. 9, HF&H,
 11 "Enterprise Fund Allocation Study") ("HF&H Report") The HF&H Report is hearsay without
 12 any exception, and no other witness testified by declaration, deposition or otherwise concerning
 13 the foundation or methodology reflected therein. The Court does, however, receive and consider
 14 the HF&H Report for the limited purpose of describing and explaining the basis of City's
 15 calculation of the IUF transfers to explain what City has done and why it has done it. The Court
 16 does not receive the HF&H report for the truth of the facts and opinions stated therein.

17 18 STATUTE OF LIMITATIONS

19
20 The Court finds that this Proposition 218 petition is governed by the three-year statute set
 21 forth in Code of Civil Procedure section 338, subdivision (a). Plainly, this is an "action upon a
 22 liability created by statute, other than a penalty or forfeiture." This phrase has been construed to
 23 mean a statutory obligation which did not exist at common law at the time the statute was
 24 enacted. (*Gardner v. Basich Bros. Constr. Co.* (1955) 44 Cal.2d 191, 194, 281 P.2d 521; *Winick*
 25 *Corp. v. General Ins. Co.* (1986) 187 Cal.App.3d 142, 145, 231 Cal.Rptr. 606.) A constitutional
 26 provision surely is afforded the same status as a statute for purposes of construing section 338;
 27 the former authorizes and enables the latter. Section 338, subdivision (a)'s three-year limitations
 28

1 period frequently has been applied by courts in mandamus proceedings. (*Pena v. City of Los*
2 *Angeles* (1970) 8 Cal.App.3d 257, 262, 87 Cal.Rptr. 326.)

3 The Court concludes that Starr's petition is not governed by the one-year statute of
4 limitations associated with an action subject to the Government Claims Act ("GCA"). (Govt.
5 Code, § 911.2.) Starr's action is subject to the exception noted in Government Code section 905,
6 subdivision (a), for claims related to "any tax, assessment, fee, or charge." Application of this
7 exception to the one-year limitations period is not merely "arguable," as the City puts it; it is
8 undisputed. Further, Starr's petition is not governed by the GCA at all: it does not seek relief in
9 the form of money or damages. (Govt. Code, § 905.)

10 The Court further concludes that City's Municipal Code section 2-183 does not apply
11 here; Starr's petition does not seek a refund of taxes or assessments. The Petition seeks relief in
12 the form of mandamus, prohibition, injunction, and a declaratory judgment concerning violations
13 of Proposition 218. Starr has not prayed for a refund of any IUF monies he has paid personally
14 or that other taxpayers have paid individually or collectively.

15 Starr filed the Petition on March 27, 2017. The Petition raises Proposition 218 claims
16 concerning IUF fund transfers for a period beginning no earlier than March 27, 2014, and
17 encompassing fiscal years 2014-2015 through and including the present. Since the three-year
18 statute of limitations applies here, Starr's Petition is not time-barred.

19 20 LEGAL PRINCIPLES

21
22 The parties largely agree on the legal standards governing this Court's review and
23 determination of this Proposition 218 petition, with a minor dispute discussed below. The Court
24 summarizes the framework of Proposition 218 actions, the standard of the Court's review of
25 Starr's Petition, and the burden of proof governing this proceeding.

26 ///

27 ///

28 ///

1 **A. PROPOSITION 218 – HISTORICAL BACKGROUND**

2
3 By the initiative process, the citizens of California enacted Propositions 13, 26 and 218.
4 These legislative enactments made sweeping changes to the California Constitution the effect of
5 which is to limit the authority of municipalities to enact general taxes, special taxes, and fees and
6 assessments.

7
8 California Constitution, Article XIII C, section 2, states the following:

9 “(a) All taxes imposed by any local government shall be deemed to be either
10 general taxes or special taxes. Special purpose districts or agencies, including
11 school districts, shall have no power to levy general taxes.

12 (b) No local government may impose, extend, or increase any general tax unless
13 and until that tax is submitted to the electorate and approved by a majority vote. A
14 general tax shall not be deemed to have been increased if it is imposed at a rate
15 not higher than the maximum rate so approved. The election required by this
16 subdivision shall be consolidated with a regularly scheduled general election for
17 members of the governing body of the local government, except in cases of
18 emergency declared by a unanimous vote of the governing body.

19 (c) Any general tax imposed, extended, or increased, without voter approval, by
20 any local government on or after January 1, 1995, and prior to the effective date
21 of this article, shall continue to be imposed only if approved by a majority vote of
22 the voters voting in an election on the issue of the imposition, which election shall
23 be held within two years of the effective date of this article and in compliance
24 with subdivision (b).

25 (d) No local government may impose, extend, or increase any special tax unless
26 and until that tax is submitted to the electorate and approved by a two-thirds vote.
27 A special tax shall not be deemed to have been increased if it is imposed at a rate
28 not higher than the maximum rate so approved.”

 Article XIII C, section 1, provides in pertinent part as follows:

 “(e) As used in this article, “tax” means any levy, charge, or exaction of any kind
 imposed by a local government, except the following:

 (1) A charge imposed for a specific benefit conferred or privilege granted directly
 to the payor that is not provided to those not charged, and which does not exceed
 the reasonable costs to the local government of conferring the benefit or granting
 the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity."

Article XIII D, section 2, subdivision (b), defines an "[a]ssessment" as being "... any levy or charge upon real property by an agency for a special benefit conferred upon the real property. 'Assessment' includes, but is not limited to, 'special assessment,' 'benefit assessment,' 'maintenance assessment' and 'special assessment tax.'"

Article XIII D, section 2, subdivision (e), defines a "[f]ee" or "charge" as "... any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service."

Article XIII D, section 3, provides as follows:

“(a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.”

Article XIII D, section 6, provides the following:

“(a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

1 (1) Revenues derived from the fee or charge shall not exceed the funds required to
2 provide the property related service.

3 (2) Revenues derived from the fee or charge shall not be used for any purpose
4 other than that for which the fee or charge was imposed.

5 (3) The amount of a fee or charge imposed upon any parcel or person as an
6 incident of property ownership shall not exceed the proportional cost of the
7 service attributable to the parcel.

8 (4) No fee or charge may be imposed for a service unless that service is actually
9 used by, or immediately available to, the owner of the property in question. Fees
10 or charges based on potential or future use of a service are not permitted. Standby
11 charges, whether characterized as charges or assessments, shall be classified as
12 assessments and shall not be imposed without compliance with Section 4.

13 (5) No fee or charge may be imposed for general governmental services
14 including, but not limited to, police, fire, ambulance or library services, where the
15 service is available to the public at large in substantially the same manner as it is
16 to property owners. Reliance by an agency on any parcel map, including, but not
17 limited to, an assessor's parcel map, may be considered a significant factor in
18 determining whether a fee or charge is imposed as an incident of property
19 ownership for purposes of this article. In any legal action contesting the validity
20 of a fee or charge, the burden shall be on the agency to demonstrate compliance
21 with this article.

22 (c) Voter Approval for New or Increased Fees and Charges. Except for fees or
23 charges for sewer, water, and refuse collection services, no property related fee or
24 charge shall be imposed or increased unless and until that fee or charge is
25 submitted and approved by a majority vote of the property owners of the property
26 subject to the fee or charge or, at the option of the agency, by a two-thirds vote of
27 the electorate residing in the affected area. The election shall be conducted not
28 less than 45 days after the public hearing. An agency may adopt procedures
similar to those for increases in assessments in the conduct of elections under this
subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section."

It is undisputed that the IUFs at issue here fall within the exception of Article XIII D,
section 6, subdivision (c), exempting sewer, water, and refuse collection services from the
requirement of a vote of City's residents prior to adoption. As is explained more fully below,
Starr's challenge to the IUFs here implicates Article XIII D, section 6, subdivisions (b) (1), (2),
and (5).

1 “Proposition 218, approved by voters in 1996, is one of a series of voter initiatives
 2 restricting the ability of state and local governments to impose taxes and fees.” (*Plantier v.*
 3 *Ramona Municipal Water Dist.* (2019) 7 Cal.5th 372, 380, 247 Cal.Rptr.3d 619, 441 P.3d 870.)
 4 “The first of these measures was Proposition 13, adopted in 1978, which limited ad valorem
 5 property taxes to 1 percent of a property’s assessed valuation and limited annual increases in
 6 valuation to 2 percent without a change in ownership.” (*Ibid.*) “To prevent local governments
 7 from increasing special taxes to offset restrictions on ad valorem property taxes, Proposition 13
 8 prohibited counties, cities, and special districts from imposing special taxes without a two-thirds
 9 vote of the electorate.” (*Ibid.*)

10 “But local governments were able to circumvent Proposition 13’s limitations by relying
 11 on *Knox v. City of Orland* (1992) 4 Cal.4th 132, 141, 14 Cal.Rptr.2d 159, 841 P.2d 144, which
 12 held a ‘special assessment’ was not a ‘special tax’ within the meaning of Proposition 13.” (*Id.*, 7
 13 Cal.5th at p. 381, 247 Cal.Rptr.3d 619, 441 P.3d 870.) “Consequently, without voter approval,
 14 local governments were able to increase rates for services by labeling them fees, charges, or
 15 assessments rather than taxes.” (*Ibid.*)

16 “To address these and related concerns, voters approved Proposition 218, known as the
 17 “Right to Vote on Taxes Act,” which added Articles XIII C and XIII D to the California
 18 Constitution.” (*Ibid.*) “Article XIII C concerns voter approval for many types of local taxes
 19 other than property taxes. Article XIII D addresses property-based taxes and fees.” (*Ibid.*)

20 “Article XIII D allows only four types of local property taxes: (1) an ad valorem tax, (2) a
 21 special tax, (3) an assessment, and (4) a property-related fee. (Art. XIII D, § 3, subd. (a).)
 22 Proposition 218 supplements Proposition 13’s limitations on ad valorem and special taxes by
 23 placing similar restrictions on assessments and property-related fees. [citation]” (*Ibid.*)

24 “Article XIII D imposes distinct procedural and substantive limitations. (§§ 4, 6.) The
 25 procedures an agency must follow before ‘imposing or increasing any fee or charge’ are found in
 26 subdivision (a) of article XIII D, section 6.8. An agency seeking to impose or increase a
 27 property-related fee must hold a hearing and send written notice of the hearing to the owner of
 28 each affected parcel. (Art. XIII D, § 6, subd. (a)(1).) The notice must specify the amount of the

1 proposed fee, the basis of calculation, and the reason for the fee. It must note the date, time, and
 2 location of the public hearing. [citation] At that hearing, ‘the agency shall *consider all protests*
 3 against the proposed fee or charge.’” ([citation], § 6, subd. (a)(2), italics added.) In addition to
 4 mandating that the agency ‘consider’ all protests, Proposition 218 establishes a majority protest
 5 remedy. ‘If *written* protests against the proposed fee or charge are presented by a majority of
 6 owners of the identified parcels, the agency shall not impose the fee or charge.’ ([citation],
 7 italics added.) Article XIII D does not define the term ‘protest’ or explain what form a written
 8 protest must take.” (*Id.*, 7 Cal.5th at pp. 381-82, 247 Cal.Rptr.3d 619, 441 P.3d 870.)

9 “Even when an agency is generally authorized to impose or modify fees, so long as it
 10 complies with the notice and hearing requirements, Proposition 218 places other substantive
 11 limitations on the agency. Those substantive limitations on property-related fees appear in
 12 subdivision (b) of article XIII D, section 6. Under these limitations: (1) revenues derived from
 13 the fee may not exceed the cost of providing the property-related service (*id.*, § 6, subd. (b)(1));
 14 (2) those revenues may not be used for any purpose other than the one for which the fee was
 15 imposed (*id.*, § 6, subd. (b)(2)); (3) the amount of the fee ‘shall not exceed the proportional cost
 16 of the service attributable to the parcel’ (*id.*, § 6, subd. (b)(3), italics added); (4) a fee may not be
 17 imposed for a service unless that service is available to the property owner (*id.*, § 6, subd.
 18 (b)(4)); and (5) a fee may not be imposed upon property owners for a general governmental
 19 service, like fire protection, if the service is available to the general public in substantially the
 20 same manner as it is to property owners (*id.*, § 6, subd. (b)(5)).” (*Id.*, 7 Cal.5th at p. 382, 247
 21 Cal.Rptr.3d 619, 441 P.3d 870.)

22 23 **B. STANDARD OF REVIEW**

24
 25 The Legislature (that is, the people through the initiative process) clearly expressed their
 26 intent that Proposition 218 should be liberally, not strictly, construed to make it harder, not
 27 easier, for local governments to implement taxes in the form of user fees without voter approval.
 28 (*Silicon Valley Taxpayers’ Assn. v. Santa Clara County* (2008) 44 Cal.4th 431, 443-449, 79

1 Cal.Rptr.3d 312, 187 P.3d 37 (“*Silicon Valley*”).) “Accordingly, courts should exercise their
 2 independent judgment in reviewing whether assessments that local agencies impose violate
 3 article XIII D.” (*Id.*, 44 Cal.4th at p. 450, 79 Cal.Rptr.3d 312, 187 P.3d 37.) Contrary to City’s
 4 argument, the Supreme Court made crystal clear in *Silicon Valley* that this Court shall not defer
 5 whatsoever to City’s decisions adopting and implementing the IUF calculation and transfer
 6 methodology. This Court must exercise its independent judgment based upon the record
 7 presented to it in deciding whether City’s creation and implementation of the IUF transfers
 8 violates article XIII D, section 6, subdivisions (1), (2), and (5).

9 10 C. BURDEN OF PROOF

11
12 City bears the burden of proving by a preponderance of the evidence that the IUF
 13 transfers do not violate article XIII D, section 6, subdivisions (b) (1), (2), and (5). (Art. XIII D,
 14 sect. 6, subd. (b) [“In any legal action contesting the validity of a fee or charge, the burden shall
 15 be on the agency to demonstrate compliance with this article.”]; *Capistrano Taxpayers Assn., Inc.*
 16 *v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, 1506-1507, 186 Cal.Rptr.3d 362;
 17 *Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892, 914, 167 Cal.Rptr.3d 687.)

18 City does not dispute it bears the burden of justifying the IUF transfers as permitted fees
 19 rather than prohibited taxes. Instead, City argues that Starr bears the initial burden of proving a
 20 prima facie case of a violation before City’s burdens of production and proof are triggered. This
 21 contention is not settled in the law governing Proposition 218 challenges. The authorities upon
 22 which City relies for this contention leave the Court with little confidence in the accuracy of
 23 City’s argument.

24 For example, the decision in *Morgan v. Imperial Irrigation Dist.*, *supra*, 223 Cal.App.4th
 25 892, 167 Cal.Rptr.3d 687, does not address the question of whether a Proposition 218 petitioner
 26 bears any initial burden of production or proof before the municipality’s burden of justifying a
 27 use fee is triggered. The decision in *California Farm Bureau Federation v. State Water*
 28 *Resources Control Board* (2011) 51 Cal.4th 421, 121 Cal.Rptr.3d 37, 247 P.3d 112, did not

1 address a Proposition 218 challenge, but instead involved a contested water rights fee which the
 2 Court held was outside the scope of Proposition 13's prohibition on ad valorem real property
 3 taxes. The decision in *California Building Industry Association v. State Water Resources*
 4 *Control Board* (2018) 4 Cal.5th 1032, 232 Cal.Rptr.3d 64, 416 P.3d 53, involved a water use fee
 5 alleged to have been in violation of article XIII A, not a Proposition 218 challenge under article
 6 XIII D, section 6, subdivision (b).

7 Thus, the Court concludes that the decisions relied upon by City in support of its
 8 argument that Starr bears the initial burden of production and proof of a prima facie Proposition
 9 218 violation are inapposite. To the extent Starr has any initial burden in this action, he has met
 10 it: the evidence in support of the Petition identifies IUFs embedded in water, waste water, and
 11 solid waste disposal utility user fees, which are transferred by City to its public safety,
 12 governmental agency, and streets and roadways maintenance funds. Starr has met any initial
 13 burden the law places upon him. City's burden of producing evidence and proving that the IUFs
 14 and transfers comply with Proposition 218 is triggered.

15 **FINDINGS OF FACT & CONCLUSIONS OF LAW**

16
 17
 18 Based upon the totality of the evidence presented, and all reasonable inferences which
 19 may be drawn therefrom, the Court makes the following findings of fact and conclusions of law:

20 (1) The evidence is undisputed that, since before fiscal year 2014-2015, City has
 21 charged its residents user fees to provide water, waste water (sewer), and solid waste disposal
 22 (trash and garbage) utility services. City has operating budgets into which these user fees are
 23 deposited and from which costs of providing these services are paid.

24 (2) As is relevant to the instant Petition, since March 27, 2014, in addition to the user
 25 fees charged to residents for water, waste water, and solid waste disposal, City has added IUFs,
 26 the purpose of which is to capture the indirect costs to City of providing public safety,
 27 governmental agency, and streets and roadways maintenance services to water ratepayers. The
 28 IUFs are embedded surcharges. Once the IUFs are paid by utility ratepayers, they are swept or

transferred to City's General fund (for public safety and governmental agency services), and the Street Maintenance Fund (for streets and roadways maintenance services) on a monthly basis.

(3) Since fiscal year 2014-2015, City has swept or transferred a total of \$34,431,058 in IUFs from the water, waste water and solid waste disposal utility operating funds to the General Fund and the Street Maintenance Fund. The IUF transfers to the General Fund ceased in fiscal year 2017. The IUF transfers to the Street Maintenance Fund have continued uninterrupted to this date.

(4) For the following reasons, the Court finds City has failed to meet its burden of production of evidence and proof that the embedded IUFs and IUF transfers from the water, waste water, and solid waste disposal utility operating funds to the General Fund and the Street Maintenance Fund comply with article XIII D, section 6, subdivisions (b) (1), (2), and (5):

(a) As mentioned previously, the Court has excluded the testimony of John Farnkopf, one of the principal authors of the HF&H Report, in the form of his deposition testimony and declarations, except the Court has received it for the limited purpose of explaining how City came up with the IUF embedded surcharge and fund transfer methodology (that is, its rationale for doing so). City's other expert, Mr. Joe Sbranti, was designated properly and deposed. Mr. Sbranti, however, did not participate in and offered no foundational testimony or other opinions about the research, analysis and methodology of the HF&H Report. Thus, no expert witness has offered any opinion testimony (in the form of a declaration, deposition or otherwise), based upon admitted evidence of foundational facts, to explain the complex methodology of assigning to the water, waste water, and solid waste disposal utilities the estimated reasonable, indirect costs to City's public safety, general governmental and streets and roadways maintenance budgetary units attributable to those utilities. The methodology employed by the HF&H Report, and upon which City pins its defense of the IUF transfers, can only be understood and justified by expert testimony; the HF&H Report's methodology and conclusions are well beyond the realm of lay opinion or common knowledge.

(b) Even if Farnkopf's opinion testimony and the HF&H Report were admissible, City has not produced any admissible evidence concerning the factual foundation upon which the

1 HF&H report is premised. City's attorneys have argued at some length about the foundational
 2 facts. The arguments of counsel, however, are not evidence. (*Beagle v. Vasold* (1966) 65 Cal.2d
 3 166, 181, 53 Cal.Rptr. 129, 417 P.2d 673.) Many documents containing budgetary information
 4 were submitted by City without any foundational testimony to explain the circumstances of their
 5 creation, their authenticity, their accuracy or their reliability. This record is bereft of any
 6 evidentiary foundation of the facts which serve as the premise of the HF&H Report. Since the
 7 HF&H Report and Farnkopf's testimony have not been received as evidence, the City's defense
 8 of the IUF transfers evaporates.

9 (c) The Court finds that the HF&H Report's conclusion that a fixed, flat
 10 percentage attributable to the provision of water, waste water and solid waste disposal should be
 11 assigned as the indirect cost to City of providing public safety, general governmental, and streets
 12 and roadways maintenance services appears to be arbitrary, capricious, unsupported by any
 13 foundational facts, and entirely speculative. The Ottawa and Seattle studies upon which the
 14 streets and roadways maintenance percentage is premised do not bear any factual connection to
 15 the actual cost to City of street and roadway maintenance attributed to water, waste water, and/or
 16 solid waste disposal services and activities. City could have but elected not to present any
 17 evidence of the fact, frequency, and expense of demolishing and repairing its streets and
 18 roadways to operate underground water and sewer lines. City likewise failed to present any
 19 evidence of the frequency and pattern of solid waste disposal truck traffic on its streets and
 20 roadways. The HF&H Report and Farnkopf's opinions simply create IUF percentages without
 21 any showing of their factual connection to the reasonable estimated indirect cost to City's streets
 22 and roadways maintenance budget caused by operation of the water, waste water, and solid waste
 23 disposal utilities' services.

24 (d) City's argument that the total of the IUF transfers can be covered substantially
 25 by non-rate revenue is not supported by any admissible evidence.

26 (e) City has not presented any evidence concerning the actual costs it has
 27 incurred from fiscal year 2014-2015 to the present for the provision of public safety, general
 28 governmental, and streets and roadways maintenance services directly or indirectly attributable

1 to the provision of water, waste water, and solid waste disposal utility services. It appears to the
2 Court that City has not even attempted to make such an actual itemization or a reasonably
3 reliable estimation. The parties submitted substantial financial information concerning the
4 revenues, expenditures, and budgets of the utilities, and non-utility agencies at issue. None of
5 this mass of information hints at an attempt by City to itemize or reasonably estimate the actual
6 costs of public safety, general governmental, and streets and roadways maintenance services
7 attributable to City's providing the three utility services at issue.

8 (f) Assuming for the sake of argument that the HF&H Report and Farnkopf's
9 opinion testimony were admitted into evidence other than on the limited basis noted above, the
10 methodology of calculating the IUF transfer percentages for the public safety and governmental
11 agency budgetary units is entirely lacking in foundation, speculative and deeply flawed. The
12 IUF percentages as to these budgetary categories are culled from the ratio of utility employees to
13 the total of City's employees, the ratio of office space occupied by utility employees to all office
14 space at City's governmental center complex, and a ratio derived from the respective budgets of
15 the utilities and the general governmental services and public safety budgetary units. This
16 methodology appears to meticulously have avoided making an actual calculation or a reasonable
17 estimate of the general governmental services and public safety services indirectly connected to
18 City's provision of water, waste water and solid waste disposal utility services to ratepayers. As
19 to that aspect of the IUF which depends on the ratio of utility office employees and office space
20 to the whole of the office space and employees at the main governmental center complex, the
21 evidence suggests that the utilities have office space entirely separate from the civic center
22 complex. No evidence was presented of any services performed by employees at the civic center
23 complex which can be directly or indirectly attributed to providing water, waste water and/or
24 solid waste disposal services. The resulting IUF transfer percentages are the definition of
25 arbitrary; they do not bear a reasonable or meaningful connection to the actual cost to City of
26 providing public safety, general governmental or streets and roadways maintenance services
27 directly or indirectly connected to providing water, waste water and/or solid waste disposal
28 services.

1 (g) The Court finds that the IUF transfer fees have remained remarkably
2 consistent in successive fiscal years, even though the budgets of the respective City services as to
3 which the IUF percentages calculated by the HF&H Report are premised fluctuate substantially.
4 This strongly suggests that the IUF transfer fees are not connected to the actual cost or a
5 reasonable estimate of the actual cost to City of providing public safety, general governmental
6 and streets and roadways maintenance services directly or indirectly connected to providing
7 water, waste water and solid waste disposal services. This creates a strong inference the IUFs
8 are an improper use fee subsidizing general governmental services available to all of City's
9 residents to the same extent as its utility ratepayers.

10 (5) Thus, the Court concludes that the IUF embedded charges and transfers at issue
11 here violate article XIII D, section 6, subdivisions (b) (1) and (2) because City has failed to meet
12 its burden of proving that the charges and transfers do "not exceed the funds required to provide
13 the property related service" and that "[r]evenues derived from the fee or charge [are] not be
14 used for any purpose other than that for which the fee or charge was imposed."

15 (6) Moreover, the Court concludes that City has failed to meet its burden of proving
16 that the IUFs have not been used "for general governmental services including, but not limited
17 to, police, fire, ambulance or library services, where the service is available to the public at large
18 in substantially the same manner as it is to property owners." (Art. XIII D, sect. 6, subd. (b)(5).)
19 In fact, it is undisputed that the IUFs have been and are used for general governmental services
20 which are available to the public at large in substantially the same manner as to property owners.
21 City's attempt to justify these general governmental surcharges on property owners through the
22 unfounded and speculative methodology outlined by the HF&H Report is unavailing for the
23 reasons stated above.

24 (7) The Court's findings and conclusions above are without prejudice to the City, at
25 some point going forward, creating a credible and reasonable means of itemizing or estimating
26 the indirect costs of providing public safety, general governmental, and streets and roadways
27 maintenance services attributable to its provision of water, waste water and solid waste disposal
28 utility services. The most rudimentary understanding of accounting leads to the conclusion that

1 both direct and indirect costs are capable of being calculated or estimated reasonably. The
2 Court's conclusion that City has failed to do so in this action should in no way be construed as a
3 barrier to City doing so in the future.

4 (8) To the extent of the above findings and conclusions, the Court finds in favor of
5 Starr and against City on the Petition.

6 (9) The Court finds against Starr on the Petition's claim that Vehicle Code section
7 9400.8 bars the IUF transfers to the Street Maintenance Fund. The Court finds the IUFs here are
8 not prohibited fees or charges for hauling legal loads on streets. (See *County Sanitation Dist. No.*
9 *2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1622, 27 Cal.Rptr.3d 28.) They are an
10 unconstitutional attempt to capture the alleged reasonable, actual indirect cost to City of
11 providing streets and roadways maintenance services attributed to water, waste water, and solid
12 waste disposal utility services. There is a reasonable possibility City could impose such an
13 indirect cost-based use fee without offending article XIII D, section 6, subdivision (b). Any such
14 constitutional use fee would not violate Vehicle Code section 9400.8.

15 (10) The Court finds against Starr on the Petition's prayer for prejudgment interest. Starr
16 has not been awarded monetary damages. The Court's Judgment on the Petition directs that City
17 reimburse its utility service budgets in the full amount of the IUF transfers from March 27, 2014,
18 to the present without prejudice to an accounting adjustment later in the event that City develops
19 a credible and reasonable means of calculating or estimating the actual direct or indirect
20 unreimbursed costs to its public safety, general governmental and/or streets and roadways
21 maintenance budgets attributable to providing water, waste water and solid waste disposal utility
22 services. Thus, Starr is not entitled to prejudgment interest. (Civ. Code, § 3287.)

23 (11) The Court finds against Starr on the Petition's claim for rescission of City's
24 ordinances enacting the IUFs and transfers. The Court has no authority to rescind a duly enacted
25 municipal ordinance.

1 **JUDGMENT**

2
3 Based upon the above findings of fact and conclusions of law, the Court hereby
4 ORDERS, ADJUDGES, and DECREES the following:

5 (1) The Court hereby enters JUDGMENT in favor of Starr and against City on the
6 Petition to the extent set forth in the above Findings of Fact and Conclusions of Law.

7 (2) The Court hereby enters its JUDGMENT GRANTING Starr's Petition for Writ of
8 Mandamus and/or Prohibition against City to the extent set forth in the above Findings of Fact
9 and Conclusions of Law.

10 (3) The Court hereby enters its WRIT OF PROHIBITION directing City to
11 immediately cease and desist imposing the embedded IUF in the rates paid by water, waste
12 water, and solid waste disposal ratepayers, WITHOUT PREJUDICE to City developing and
13 implementing a credible and reasonable means of complying with article XIII D, section 6,
14 subdivisions (1), (2), and (5) which rectifies the errors and omissions set forth in the above
15 Findings of Fact and Conclusions of Law.

16 (4) The Court hereby enters its WRIT OF PROHIBITION directing City to
17 immediately cease and desist transfers of IUFs from the water, waste water, and solid waste
18 disposal utility operating budgets to City's General Fund, Street Maintenance Fund, or any other
19 fund controlled by City, WITHOUT PREJUDICE to City developing and implementing a
20 credible and reasonable means of complying with article XIII D, section 6, subdivisions (1), (2),
21 and (5), which rectifies the errors and omissions set forth in the above Findings of Fact and
22 Conclusions of Law. (See *Citizens for Fair REU Rates v. City of Redding* (2018) 6 Cal.5th 1, 237
23 Cal.Rptr.3d 179, 424 P.3d 268.)

24 (5) The Court hereby enters its WRIT OF MANDATE directing City to immediately
25 reimburse to the water, waste water, and solid waste disposal utility operating budgets the total
26 sum of all IUF transfers made to the General Fund and Street Maintenance Fund for fiscal years
27 2014-2015 (beginning March 27, 2014), 2015-2016, 2016-2017, 2017-2018, 2018-2019, and
28 2019-2020. The Court intends this aspect of its writ of mandamus and prohibition to restore the

1 status quo ante as to IUF transfers beginning no earlier than March 27, 2014. The issuance of
 2 this WRIT OF MANDATE is WITHOUT PREJUDICE to City developing and implementing a
 3 credible and reasonable means of complying with article XIII D, section 6, subdivisions (1), (2),
 4 and (5), which rectifies the errors and omissions set forth in the above Findings of Fact and
 5 Conclusions of Law. (See *Citizens for Fair REU Rates v. City of Redding, supra*, 6 Cal.5th 1, 237
 6 Cal.Rptr.3d 179, 424 P.3d 268.)

7 (6) The Court issues its ORDER of PERMANENT INJUNCTION consistent with the
 8 WRITS OF MANDATE AND PROHIBITION set forth above. This PERMANENT
 9 INJUNCTION is WITHOUT PREJUDICE to City developing and implementing a credible and
 10 reasonable means of complying with article XIII D, section 6, subdivisions (1), (2), and (5),
 11 which rectifies the errors and omissions set forth in the above Findings of Fact and Conclusions
 12 of Law. (See *Citizens for Fair REU Rates v. City of Redding, supra*, 6 Cal.5th 1, 237 Cal.Rptr.3d
 13 179, 424 P.3d 268.)

14 (7) The Court hereby enters its DECLARATORY JUDGMENT in favor of Starr and
 15 against City as follows:

16 (a) The IUF embedded charges and transfers at issue here violate article XIII D,
 17 section 6, subdivisions (b) (1) and (2), which prohibit “use fees or charges that exceed the funds
 18 required to provide the property related service” and that are “used for any purpose other than
 19 that for which the fee or charge was imposed.”

20 (b) The IUFs violate article XIII D, section 6, subdivision (b)(5), because they
 21 are and have been used “for general governmental services including, but not limited to, police,
 22 fire, ambulance or library services, where the service is available to the public at large in
 23 substantially the same manner as it is to property owners.”

24 (8) The Court hereby awards costs of suit to Starr and against City in an amount to be
 25 determined by a timely served and filed cost memorandum in conformity with the Code of Civil
 26 Procedure and the California Rules of Court.

27 The Court reserves jurisdiction to enforce, modify, or vacate the above JUDGMENT,
 28 WRIT OF MANDATE AND PROHIBITION, and PERMANENT INJUNCTION.

1 This reservation of jurisdiction includes, but is not limited to, a later evidentiary hearing and
 2 adjudication, if necessary, concerning the extent to which, if at all, City rectifies the errors and
 3 omissions set forth in the above Findings of Fact and Conclusions of law concerning
 4 implementation of IUFs and IUF transfers, as well as concerning any necessary adjustments or
 5 modifications to the WRIT OF MANDATE directing reimbursement of IUFs to the respective
 6 utility services funds in compliance with article XIII D, section 6, subdivisions (b) (1), (2), and
 7 (5). Any such later evidentiary hearing and adjudication shall be upon noticed motion in
 8 conformity with the Code of Civil Procedure and the Rules of Court.

9 The Clerk shall give notice of this Final Statement of Decision and Judgment. The Court
 10 directs counsel of record for Starr to serve and file a proposed Order, Judgment, and Writs
 11 consistent with the Court's Final Statement of Decision and Judgment in conformity with the
 12 Code of Civil Procedure and the Rules of Court.

13
 14
 15 Dated: January 14, 2021

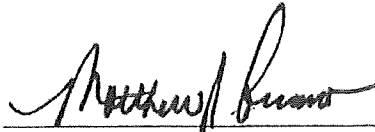

 16 MATTHEW P. GUASCO
 17 Judge of the Superior Court
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA

MINUTE ORDER

DATE: 06/14/2021

TIME: 04:00:00 PM

DEPT: 20

JUDICIAL OFFICER PRESIDING: Matthew P. Guasco

CLERK: Denise Arreola

REPORTER/ERM:

CASE NO: **56-2017-00494475-CU-WM-VTA**

CASE TITLE: **Starr vs. CITY OF OXNARD**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT TYPE: Ruling on Submitted Matter

APPEARANCES

The Court, having previously taken the Motion to Amend and Motion to Implement Judgment under submission, now rules as follows:

On May 13, 2021, at 8:20 a.m., in Courtroom 20, the matter came before the Court for a hearing on the motion of respondent, City of Oxnard ("City"), to amend the Amended Final Judgment, and regarding implementation of said judgment, in favor of petitioner, Aaron Starr ("Starr"), entered by this Court on March 23, 2021. The parties appeared as set forth in the Clerk's Minutes. The Court received and considered the pleadings, declarations, exhibits, and arguments of counsel submitted by each of the parties. At the conclusion of the arguments, the Court took the matter under submission. The following is the Court's ruling on that submitted matter.

1. Procedural Background and Context of Pending Proceeding

On March 23, 2021, the Court entered its Amended Final Judgment granting in part Starr's petition for writ of mandamus and prohibition in this Proposition 218 taxpayer action (See Cal. Const., Art. XIID). The judgment is in the form of the Court's writs of mandamus and prohibition, with a concomitant and coextensive permanent prohibitory and mandatory injunction, directing City to (a) cease charging an Infrastructure Use Fee ("IUF") which is added to rates paid by City residents for water, sewer, and solid waste disposal utility services; and (b) transfer back to the respective utility budgets ("Enterprise Funds") the IUF fees which had been transferred to City's General Fund, Public Safety Fund, and Streets Maintenance Fund for the period March 27, 2014, through and including the date of entry of the Amended Final Judgment, a sum which the parties agree now totals approximately \$36.5 million.

During the proceedings attending finalization of the Statement of Decision and the Judgment, the issue of determining the date of return of the writs of mandate and prohibition arose. City raised the concern that it is not in the financial position to make the required fund transfers (which are between funds controlled by City in different agency and enterprise budgetary units) all at once or within a period of 90 days. The Court invited City to bring this present motion, which seeks to amend the Amended Final Judgment to permit City's compliance with and the filing of the return on the writs over a longer period of time. Starr and City each have submitted briefing and evidence, including requests for judicial notice, to the Court. The Amended Final Judgment expressly reserves the Court's jurisdiction to hear and

DATE: 06/14/2021

MINUTE ORDER

Page 1

DEPT: 20

VEN-FNR-10.03

Ventura Superior Court Accepted through eDelivery submitted 06-21-2021 at 03:27:07 PM

determine this motion.

City takes the position that, pursuant to provisions of the Government Claims Act (Govt. Code, § 900, et seq.) ("GCA"), the writ of mandate and mandatory injunction compelling City to transfer the \$36.5 million in IUF fees back to the Enterprise Fund is a "money judgment," thus entitling City to pay it in installments over a period not exceeding 10 years. (See Govt. Code, § 970.6.) Starr disagrees, arguing the fund transfer directive is not a money judgment, thus negating any requirement of compliance with the installment judgment provisions of the GCA. The parties, however, agree the Court's equitable powers in fashioning writ relief are more than broad enough to permit City the opportunity to complete the fund transfers over time to avoid undue hardship. The parties disagree about whether City has, in fact, demonstrated undue hardship justifying a seven-year period in which to complete the fund transfers.

2. Requests for Judicial Notice

The Court GRANTS each party's request for judicial notice. The Court has considered the ballot measure materials produced by City. The Court has considered the legislative history materials produced by Starr.

3. The Writ of Mandate and Mandatory Injunction Directing the Fund Transfers Do Not Create a "Money Judgment" Subject to the Provisions of Government Code, § 970, et seq.

The parties are unable to point to any published judicial authorities addressing the question of whether, in a Proposition 218 mandamus proceeding, a trial court order essentially undoing and reversing unconstitutional transfers of user fees to a municipality's general fund constitutes a "money judgment" for purposes of the installment provisions of Government Code section 970, et seq. The Court has carefully reviewed the published decisions concerning Proposition 218 mandamus proceedings for guidance on this question without success.

It turns out that the answer to this question lies in the published decisions which discuss whether a mandamus proceeding against a municipality is a claim for money or damages subject to the GCA. "In determining whether the [GCA] applies, the critical question is whether the recovery of money or damages was the primary purpose of [the plaintiff's] claims." (*Canova v. Trustees of Imperial Irrigation Dist. Employee Pension Plan* (2007) 150 Cal.App.4th 1487, 1493, 59 Cal.Rptr.3d 587 ("Canova").) "Where the primary purpose of a mandamus action is monetary relief, the mandatory requirements of the [GCA] apply." (*Ibid.*) "In contrast, mandamus actions seeking to compel performance of a mandatory duty, statutory duty or ministerial act may not be subject to the [GCA] if they do not seek money or damages." (*Ibid.*)

While a writ of mandamus, ". . . if granted, may ultimately result in money being transferred . . . , such relief does not render the request a claim for money or damages that requires the filing of a government claim." (*Id.*, 150 Cal.App.4th at p. 1498, 59 Cal.Rptr.3d 587.) In *Canova*, the appellate court held that a trial court mandamus writ compelling a municipality to cease a pension rollover practice and transfer funds from one pension-related account to another was not a claim or judgment subject to the GCA. (150 Cal.App.4th at p. 1493, 59 Cal.Rptr.3d 587.) Instead, the fund transfer compelled by the writ of mandamus directed the municipality to perform a mandatory duty, statutory duty, and/or a ministerial act. (*Ibid.*) The *Canova* court pointed to other cases reaching the same conclusion concerning writs of mandamus compelling municipalities and other governmental agencies to make certain fund transfers in compliance with mandatory duties, statutory duties, and/or ministerial acts. (See *Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109, 1125-26, 61 Cal.Rptr.2d 207 [mandatory duty regarding future funding of retirement system]; *County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 587-88, 159 Cal.Rptr. 1 [disbursement of funds in manner required by Medi-Cal statutes]; *Forde v. Cory* (1977) 66 Cal.App.3d 434, 436-38, 135 Cal.Rptr. 903 [disbursement of lump sum death benefit pursuant to express statutory duty].)

Here, Starr's writ petition sought to compel City to comply with its mandatory constitutional duty to not use IUFs "for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners" without first obtaining voter approval. (Art. XIII D, sect. 6, subd. (b)(5).) The Court's Final Statement of Decision contains the Court's findings of fact and conclusions of law to the effect that City's IUF transfers violated Art. XIII D, section 6, subdivision (b)(5). The Amended Final Judgment, therefore, includes this Court's declaratory judgment to the same effect, as well as the Court's writ of mandamus directing City to correct this unconstitutional misuse of IUFs by transferring the \$36.5 million in IUFs from the Public Safety Fund, General Fund, and Streets Maintenance Fund, back into the Enterprise Funds. City is not being directed to pay \$36.5 million to petitioner or the taxpayers or the property owners who pay utilities use fees. This Court's writ of mandamus simply directs City to redistribute these monies among funds it wholly controls.

Thus, this mandamus action compels City to perform a mandatory, constitutional duty; it cannot reasonably or accurately be described as asserting a claim for money or damages subject to the GCA. The statutes relied upon by City in support of its argument that it is entitled to accomplish these fund transfers in installments over a course of years – Government Code sections 970.1, 970.4, 970.5, and 970.6 – apply to money judgments arising from claims governed by the GCA. These statutes are set forth in Chapter 2 of the GCA, entitled, "Payments of Judgments Against Local Entities." None of these statutes purport to overrule or affect the line of judicial authority typified by *Canova* differentiating between mandamus actions compelling the performance by a municipality of mandatory or statutory duties, as opposed to mandamus proceedings which are effectively claims for money or damages against governmental entities. Government Code sections 970.1-970.6, therefore, do not apply to the fund transfers at issue in this case. This conclusion is consistent with the legislative history produced by the parties in this proceeding.

Accordingly, City's motion to amend the judgment to permit installments pursuant to Government Code sections 970.1-970.6 is DENIED.

4. Even if Government Code sections 970.1-970.6 Apply Here, City Has Failed to Meet Its Burden of Proving That the Fund Transfers Create an Undue Hardship

Assuming for the sake of argument that the GCA's installment judgment provisions apply to this Court's writ of mandamus directing City to transfer back to the Enterprise Funds the IUFs which had been improperly transferred to the Public Safety, General and Streets Maintenance Funds, City has failed to meet its burden of producing evidence and persuading the Court that City is entitled to such statutory relief.

Government Code section 970.6 provides the following in pertinent part:

"(a) The court which enters the judgment shall order that the governing body pay the judgment, with interest thereon, in not exceeding 10 equal annual installments if both of the following conditions are satisfied:

(1) The governing body of the local public entity has adopted an ordinance or resolution finding that an unreasonable hardship will result unless the judgment is paid in installments.

(2) The court, after hearing, has found that payment of the judgment in installments as ordered by the court is necessary to avoid an unreasonable hardship."

Government Code section 970.6 has been described by at least one appellate court in the following terms:

"In sum, the Government Code expressly and specifically requires a local public entity to pay the full

amount of any judgment, with interest. The entity is required to pay the judgment out of any unrestricted funds it has for the fiscal year in which the judgment was entered, and if any amount remains unpaid, is required to obtain funds and pay that amount the following fiscal year. The only exception is that the entity can in some cases obtain a court order allowing it to pay the judgment, with interest, in annual installments for a period up to 10 years. (§ 970.6.)" (*Joseph v. San Francisco Housing Authority* (2005) 127 Cal.App.4th 78, 82, 25 Cal.Rptr.3d 179.)

It is undisputed that City has complied with subdivision (a)(1): the City Council adopted a resolution finding that an unreasonable hardship will result unless the judgment is paid in installments. There are several reasons why the evidentiary record presented to the Court, however, does not support a finding that the requested installment payment plan is necessary to avoid an unreasonable hardship to City.

First, City's systematic disregard of Proposition 218's unambiguous prohibition against using IUFs "for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners" without first obtaining voter approval (Art. XIII D, sect. 6, subd. (b)(5)) over the course of multiple fiscal years was illegal and unreasonable. Unduly delaying the fund transfers compelled by this Court's writ of mandamus and mandatory injunction which simply restores the status quo ante as if City had not violated its mandatory constitutional duty would be no less unreasonable.

Second, the Amended Final Judgment does not direct the payment of monies from City's funds to a non-City recipient (e.g., a tort claimant). Instead, the Amended Final Judgment directs City to redistribute monies as between funds it wholly controls and manages for the benefit of its taxpayers, property owners and residents. The revenue and cash side of City's overall budget will not be substantially affected whatsoever. The monies tasked to each of City's budgetary units will change in the amount of the reallocation required by the fund transfers. That circumstance is not an unreasonable hardship.

Third, City effectively seeks to continue to benefit from its unlawful diversion of IUFs for general governmental purposes by unreasonably delaying restoration of the IUF transfers to the Enterprise Funds. City created this "hardship" for several fiscal years after being notified by Starr of the unconstitutional nature of the IUF transfers. Essentially, City claims it spent the monies it should not have transferred from the Enterprise Funds into the Public Safety, General, and Streets Maintenance Funds. City's request to delay the IUF transfers for seven years would be an unreasonable judicial response to address the hardship City itself created.

Fourth, as pointed out by Starr and supported by the Law Revision Commission Report concerning Government Code section 970.6, City's evidentiary showing falls short of demonstrating that City will incur an unreasonable hardship based upon all sources of available funding. (See 15 Cal. Law Rev. Com. Rpt. (1980), p. 1264.) City has produced partial and conclusory evidence about the financial logistics and effects of transferring back to the Enterprise Funds the \$36.5 million in IUF transfers City made from the Enterprise Funds to the Public Safety, General and Streets Maintenance Funds. City admits that it has available funds in the form of its cash reserves as well as revenues from two recently-passed local measures, all of which exceeds the \$36.5 million in IUF transfers to the Enterprise Funds which must be made to comply with Proposition 218 and the Amended Final Judgment. City has priorities for the expenditure of these funds which differ from and would delay compliance with this Court's Amended Final Judgment correcting City's violation of Proposition 218. The Court finds that City's declaration of competing priorities for these monies does not demonstrate an unreasonable hardship within the meaning of Government Code section 970.6.

Additionally, City admits that borrowing in the form of the issuance of bonds is another available source of money to accomplish the IUF transfers to the Enterprise Funds. Again, City's chief financial officer has declared a preference to avoid the interest expense and credit effects of doing this, but that expression of City's priorities does not amount to an unreasonable hardship within the meaning of

Government Code section 970.6.

Finally, there is no hint in City's evidentiary showing that the IUF transfers to the Enterprise Funds will force City to file for bankruptcy protection. (See *Sutter Health v. Eden Township Healthcare Dist.* (2016) 6 Cal.App.5th 60, 66, 25 Cal.Rptr.3d 179.) City's showing presents a financial picture very different than the type of distress which would make bankruptcy likely in the event that City transfers \$36.5 million from its Public Safety, General, and Streets Maintenance Funds to the Enterprise Funds. City's net financial position remains the same; the \$36.5 million simply is being reallocated among City's budgetary units. In fact, City's evidentiary showing demonstrates that it has the present financial ability to complete the IUF transfers ordered by the Amended Final Judgment from unrestricted revenue and existing funds from a variety of available sources.

The Court, therefore, DENIES City's motion to amend the judgment to permit installment payments under Government Code sections 970.1-970.6 for this reason as well.

5. The Court's Exercise of Its Equitable Powers

For the following reasons, the Court GRANTS City's motion to amend the Amended Final Judgment to delay the return on the writ of mandamus and permit completion of the IUF transfers over time IN PART.

The parties agree the Court has the broad equitable authority to permit City's requested relief. The writs of mandamus and prohibition, as well as the injunctive relief, contained in the Amended Final Judgment invoke the equitable authority of the Court. The following succinctly summarizes the breadth of the Court's equitable powers concerning City's motion:

"Trial courts have broad equitable power to fashion any appropriate remedies. (*Zarrah v. Zarrah* (1988) 205 Cal.App.3d 1, 4, 252 Cal.Rptr. 20.) In doing so, they may consider any unjust or harsh results, and adopt means to avoid them. (See, e.g., *Casas v. Thompson* (1986) 42 Cal.3d 131, 141, 228 Cal.Rptr. 33, 720 P.2d 921.) 'Equitable relief is by its nature flexible, and the maxim allowing a remedy for every wrong (Civ.Code, § 3523) has been invoked to justify the invention of new methods of relief for new types of wrongs. (11 Witkin, Summary of Cal. Law (9th ed. 1990) Equity, § 3, p. 681.) In actions founded on contract, courts have available for use in appropriate cases, in addition to specific performance, equitable remedies based on reformation, excuse of conditions and rescission (1 Witkin, Summary of Cal. Law (9th ed. 1987) Contracts, §§ 382, 772, 883-885, pp. 347-348, 697, 791-794), as well as quasi-specific performance by constructive trust (11 Witkin, Summary of Cal. Law, supra, Equity, § 28, pp. 706-707), and indirect enforcement of a covenant by negative decree (id., § 61, pp. 737-38).' (*Advanced Micro Devices, Inc. v. Intel Corp.* (1994) 9 Cal.4th 362, 390, 36 Cal.Rptr.2d 581, 885 P.2d 994.)" (*Shapiro v. Sutherland* (1998) 64 Cal.App.4th 1534, 1552, 76 Cal.Rptr.2d 101.)

The Court has considered the totality of the evidence and arguments presented for and against granting City's request for relief concerning the \$36.5 million in IUF transfers required by the Court's Final Amended Judgment. While, in the preceding section of this ruling, the Court finds City has failed to demonstrate unreasonable hardship within the meaning of Government Code section 970.6, subdivision (a), there are equities favoring City's request to restore the \$36.5 million in IUF transfers back to the Enterprise Funds over a course of more than one fiscal year. Although City's revenues and reserves make a lump sum transfer feasible, the budgetary impact of requiring a \$36.5 million transfer in that fashion would create potentially severe, short-term negative effects on the services City provides to its residents and taxpayers. In balancing the evidence, equities and circumstances presented in support of and opposition to the motion, the Court finds that City's request to complete the transfer of \$36.5 million back to the Enterprise Funds over a course of time exceeding one fiscal year is fair, reasonable and just.

The Court, therefore, enters its ORDER that the \$36.5 million in IUF transfers back to the Enterprise Funds required by the Amended Final Judgment shall occur according to the following transfer completion schedule:

(a) Fiscal Year 2021-2022: Complete transfer of \$12 million, plus statutory attorney's fees and costs per stipulation of the parties. The transfer shall be completed in four equal quarterly installments to be made on the first date of the beginning of each quarter, with the stipulated attorney's fees and costs to be added to the First Quarter installment.

(b) Fiscal Year 2022-2023: Complete transfer of \$12 million. The transfer shall be completed in four equal quarterly installments to be made on the first date of the beginning of each quarter.

(c) Fiscal Year 2023-2024: Complete transfer of balance of the IUF transfers ordered by the Amended Final Judgment. The transfer shall be completed in four equal quarterly installments to be made on the first date of the beginning of each quarter.

The Court hereby enters its ORDER amending the Amended Final Judgment to the extent of the above ruling. The Court further enters its ORDER that Starr promptly shall file a partial return of the writ of mandamus upon receiving written verification by City of each quarterly transfer having been made. Upon receiving written verification by City that the last and final transfer installment has been made, Starr promptly shall file a final return on the writ of mandamus.

In light of the Court's findings and conclusions set forth above, the Court finds the IUF transfers required by the Amended Final Judgment do not constitute a money judgment within the meaning of the Code of Civil Procedure or the GCA. Accordingly, the IUF transfers are not subject to the accrual of interest under either the Code of Civil Procedure or the GCA pending full compliance with the Amended Final Judgment. The Court makes no express or implied finding or order about whether the IUF transfers required by the Amended Final Judgment, as amended by the above ruling, are subject to the accrual of interest under some other provision of law.

The Clerk shall give notice of this ruling. Counsel for Starr shall serve and file a proposed order and a proposed Second-Amended Final Judgment consistent with the above and in conformity with the Code of Civil Procedure and the California Rules of Court. A copy of this ruling may be attached and incorporated by reference in any such proposed order or judgment in lieu of quoting same verbatim in the body of the proposed order or judgment.

Ventura Superior Court Accepted through eDelivery submitted 06-21-2021 at 03:27:07 PM



CITY COUNCIL AGENDA REPORT
REPORT OF CITY MANAGER/EXECUTIVE
DIRECTOR/SECRETARY
AGENDA ITEM NO. G.2

DATE: September 7, 2021
TO: City Council
FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org
SUBJECT: Infrastructure Use Fee Refund and Utility Rate Reduction.

RECOMMENDATION

That the City Council receive a report regarding the Infrastructure Use Fee (IUF) credit and utility rate reduction, and approve and authorize the following:

1. The refund of IUF funds totaling \$7,112,897 paid by Oxnard utility customers during the period of January 1, 2020 through August 31, 2021, with Water customers receiving a credit totaling \$3,208,214, Wastewater customers receiving a credit totaling \$2,015,000, and Environmental Resources customers receiving a credit totaling \$1,889,683;
2. The reduction of utility rates by a combined estimated total of \$3,556,448 (a 3.2 percent reduction) for the period September 1, 2021 through June 30, 2022 to reflect the elimination of the IUF for this time period. Water rates will be reduced by an estimated \$1,604,106, Wastewater rates by an estimated \$1,007,500, and Environmental Resources rates by an estimated \$944,842;
3. In Fiscal Year 2022-23 and beyond, the City's full and continued compliance with the Second Amended Final Judgment filed July 13, 2021 regarding utility rates and a new IUF consistent with this judgment. (Case No.: 56-2017-00494475-CU-WM-VTA); and
4. The Chief Financial Officer or designee to approve administrative budget adjustment for the impacted revenue reductions in the Water, Wastewater and Environmental Resources funds for Fiscal Year 2021-22.

BACKGROUND

The City currently has between approximately 40,000 and 47,000 customer accounts, which varies based upon the specific utility. The average customer, across all classes, was billed \$274 per month, or \$5,480 over the 20-month period for all three utilities combined.

As part of the rate studies previously conducted to develop rates for the three utilities (Water, Wastewater and Environmental Resources), an IUF was incorporated into the rate models. Including the IUF resulted in an increase in total expenditures for each utility, thereby increasing the rates to a level that was higher than would have otherwise been calculated.

Consistent with the Court's order and pursuant to the recommended actions, the City will remove the IUF from the City's rate structure by reducing utility rates by a combined 3.2%, or an estimated \$3,556,448 million effective September 1, 2021 through June 30, 2022. These reductions are estimated to reduce the rates for Water by \$1,604,106, Wastewater by \$1,007,500, and Environmental Resources by \$944,842. The reduced rates will remain in effect until the City completes and adopts new IUF study(ies) and/or new rate study(ies). The total annual impact of the rate reductions is an estimated \$4,267,738. The actual reduction for each customer will depend on the usage of water and wastewater services, and the

type of Environmental Resources services that each customer receives from the City.

In addition, pursuant to the recommended action, all existing residential and commercial utility customers will receive a one-time credit in September that will appear on their October 2021 utility bill. This means that all existing customers will be credited for 20 months of IUF payments (January 2020 through August 2021) on their October 2021 utility bill. The City will credit a total of \$7,112,897 to its residential and commercial ratepayers of the three utilities. (Water - \$3,208,214, Wastewater - \$2,015,000, Environmental Resources - \$1,889,683). **The specific amount of the one-time credit will be calculated based on each customer's actual Water, Wastewater and Environmental Resources charges from January 2020 to August 2021.**

For former utility customers, one of three options will apply:

1. If a customer moved out and terminated their utility account between January 2020 and August 2021 and left their account balance at \$0 (i.e., paid the utility accounts in full), then the amount of one-time credit will be posted to their closed utility account, the account will show a credit balance, and a refund check will be mailed to the former customer at the mailing address on file.
2. If a customer moved out and terminated their utility account between January 2020 and August 2021 and left an outstanding balance, then the amount of the one-time credit will be posted to their closed utility account and the credit will be applied against the outstanding balance. If the credit amount is larger than the balance owed, the account will end up with a refund. A refund check will be mailed to the former customer at the mailing address on file.
3. If a customer moves out and terminated their utility account on or after September 1, 2021, the customer would have received the one-time credit and was charged the reduced rate prior to closing the account. No further refund would be due.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

This action involves authorizing the one-time credit of \$7,112,897, and reducing ongoing utilities rates by a combined 3.2% for FY 2021-22, resulting in a revenue decrease in FY 2021-22.

Each of the three (3) utilities has sufficient funding in their respective fund balances to fund both the one-time credit and to absorb the impact to revenues of the current rate reduction in FY 2021-22.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Kenneth Rozell, Chief Assistant City Attorney, Juanita Guzman, Administrative Services Manager

ATTACHMENTS

None

Annual Enterprise Pavement Impact Cost Reimbursement Study

February 21, 2024



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS

Table of Contents

ES	Executive Summary	5
	Study Overview	5
	Methodology Overview.....	5
	2014 Study Methodology Overview.....	5
	Overview of Methodology Used in This Study.....	6
	Study Findings	6
1.	Study Objectives & Background	7
	Legal Environment	7
	City of Oxnard Streets	8
	Pavement Deterioration	8
	Fatigue.....	8
	Aging.....	8
2.	Water and Wastewater Infrastructure Use Fees	9
	Pavement Management.....	9
	Utility Trench Patching.....	9
	Portion of Street Wear Attributable to Utility Trench Patching	10
	Annual Infrastructure Use Fee Derivation	13
	Retroactive Application of Annual Water and Wastewater Infrastructure Use Fee Methodology.....	14
3.	Solid Waste Collection Infrastructure Use Fee.....	15
	Solid Waste Collection in the City of Oxnard	15
	Impacts of Vehicle Traffic on Roadways	15
	Residential Street and Alley Area Impacted Solid Waste Collection	16
	ESALs Utilized by Solid Waste Collection	16
	Derivation of Annual Solid Waste Infrastructure Use Fee	18
	Retroactive Application of Annual Solid Waste Collection Infrastructure Use Fee Methodology	20
4.	Summary and Recommendations	21
	Recommendations	21
	Appendix A	22
	Solid Waste Collection Routes	22
	Solid Waste Collection Vehicle Weight - Side-Loader	23

City of Oxnard Street Area by Functional Class.....	24
Solid Waste Vehicle Weight and ESAL Calculation.....	25

Table of Tables

Table 1 – Summary of Annual IUF by Enterprise	6
Table 2 – Summary of Retroactive Application of IUF From 2014 through 2021.....	7
Table 3 – Survey Results: Area Impacted by Visible Trench Patches.....	10
Table 4 – Survey Results: Average Weighted PCI Score.....	10
Table 5 – Survey Results: Average Weighted PCI Score.....	11
Table 6 – Trench Patch PCI Score Impact Simulation	12
Table 7 – Impact on Visible Water and Wastewater Trench Patches on Oxnard’s Roadways	12
Table 8 – Water and Wastewater IUF Derivation.....	13
Table 9 – Water and Wastewater Portion of Underground Infrastructure.....	13
Table 10 – Water and Wastewater IUF.....	14
Table 11 – Retroactive Application of Water and Wastewater IUF Methodology	14
Table 12 – Residential Street Impact Area by Solid Waste Collection.....	16
Table 13 – Alley Impact by Solid Waste Collection.....	16
Table 14 – Solid Waste Vehicles' Portion of Annual Residential Street ESAL.....	17
Table 15 – Weighted Average, Annual Alley ESAL	17
Table 16 – Solid Waste Vehicles' Portion of Annual Alley ESAL.....	18
Table 17 – Solid Waste Annual Residential Street IUF Derivation.....	18
Table 18 – Solid Waste Annual Alley IUF Derivation.....	19
Table 19 – Total Solid Waste Annual IUF Derivation	19
Table 20 – Retroactive Application of Annual Solid Waste Collection IUF Methodology	20
Table 21 – Summary of Annual IUF by Enterprise	21
Table 22 – Summary of Retroactive Application of IUF From 2014 through 2021.....	21

Table of Figures

Figure 1 – Utility Trench and Trench Patch.....	10
---	----

Glossary of Terms

Terms	Descriptions
Alley	Secondary access to buildings
Arterials	Primary conduits for mobility through metropolitan areas
BWA	Bartle Wells Associates
City	The City of Oxnard
Collectors	Collect traffic from residential streets and guide traffic to arterial streets
Dry Utility	Telecommunications, Electricity, Gas
ESAL	Equivalent Single Axle Load
IUF	Infrastructure Use Fee
PCI	Pavement Condition Index
Residential Street	Primary access to residences
Roadway	Arterials, collectors, residential streets, and alley maintained by the City
Wastewater Enterprise	Wastewater service provided by the City
Solid Waste Enterprise	Garbage service provided by the City
TI	Traffic Index
UI	Underground Infrastructure
Water Enterprise	Water service provided by the City

ES Executive Summary

Study Overview

The City of Oxnard (the “City”) is the largest city within Ventura County, California. The City is home to over 200,000 residents and maintains a street network of over 1,034 Lane Miles of city streets. The activities of the City’s solid waste, water, and wastewater enterprises damage the City’s streets in a way which may be isolated and quantified. The solid waste enterprise sends heavy collection trucks over the majority of the City’s streets, especially residential streets, multiple times per week causing the streets to degrade. The water and wastewater enterprises have infrastructure under the streets. When the water and wastewater enterprises cut into the streets to access their infrastructure, damage is caused to the City’s streets.

The objective of this study is, first, to analyze and quantify the annual damages to the City’s streets caused by the water, wastewater, and solid waste enterprises and, second, to determine how much the enterprises should compensate the City for the cost of the damages through a transfer to the General Fund.

The annual damage to the City’s streets that is caused by the water, wastewater, and solid waste enterprises each year is factually connected to the respective enterprises’ use of the streets. The water and wastewater enterprises damage the streets while installing and making infrastructure repairs. The solid waste enterprise causes excessive damage by its constant use of heavy equipment on roadways that are not designed and constructed to handle its vehicles.

The following study describes the fact-based approach and methodology used to quantify the annual damages to the City’s streets caused by the water, wastewater, and solid waste enterprise operations and provides the findings and recommendations of the project team.

Methodology Overview

2014 Study Methodology Overview

In 2014 the City had an Enterprise Fund Allocation Study performed. The 2014 study allocated the impact to roadways between surface and subsurface activities. First, the total construction and maintenance costs associated with surface and subsurface activities were totaled. Second, these totals were allocated amongst the City’s utilities.

The surface cost allocated to the solid waste enterprise was based on a general estimate of the percentage of equivalent single axle load (ESAL) generated by solid waste enterprise vehicles on all the City’s roadways out of the City’s general traffic load.

The solid waste enterprise was allocated only a portion of surface costs and the water and wastewater enterprises were allocated a portion of the subsurface costs. Because water and wastewater utilities have pipelines that generally are responsible for any damage caused to the subsurface, the 2014 study allocated all subsurface construction and maintenance costs to the water and wastewater enterprises, and then allocated those costs between the two enterprises based on an inventory of pipelines used by each enterprise.

Overview of Methodology Used in This Study

This study focuses on quantifiable impacts with supporting data of the damages to the City's roadways caused by the uniquely impactful use of the City's roadways by the water, wastewater and solid waste enterprises for the benefit of utility customers.

This study quantifies the portion of roadway degradation caused by the water and wastewater enterprises by using the results of a survey of City streets to calculate the actual reduction in the Pavement Condition Index (PCI) score attributable to the visible trench patches made by the water and wastewater enterprises. When the water and wastewater enterprises access their underground infrastructure in the streets, their repair method includes utility patches in the asphalt, which in turn reduces the durability and structural integrity of the roadway asphalt. The water and wastewater enterprise portion of the overall PCI score reduction of City roadways is then applied to planned annual capital and operating costs to derive the infrastructure use fee (IUF). The City uses the PCI score of its roadways, updated by annual surveys, to help determine its capital spending plan. Since the water and wastewater IUF is based on annual survey data as well as planned capital and operating costs, it will change as the City's street condition changes.

The solid waste enterprise's damage to the streets is quantified by 1) identifying the actual amount of vehicle wear the City streets are designed to withstand; then 2) calculating the portion of that damage caused by the solid waste enterprise based on the actual weight of solid waste trucks, the actual area impacted by solid waste routes, and frequency of solid waste collections; and finally 3) applying the portion of degradation to planned capital and operating costs. As with the water and wastewater IUF, the solid waste IUF will change periodically as the data for these factors change.

Study Findings

The results from the analysis performed in this study demonstrate that the activities of the City's water, wastewater, and solid waste enterprises cause annual degradation to the City's roadways.

Table 1 below provides a summary of the current projected annual cost for FY 2022/23 of the impact to the roadways by enterprise fund. Table 2 provides an updated estimate of the costs between 2014 and 2021 to address issues raised in recent litigation over the City's IUF.¹

Table 1 – Summary of Annual IUF by Enterprise

Annual IUF	Amount
Water	\$55,859
Sewer	\$35,713
Solid Waste	<u>\$2,048,468</u>
Total IUF	<u>\$2,140,040</u>

¹ *Starr v. City of Oxnard*, Ventura County Superior Court, Case No. 56-2017-00494475.

Table 2 – Summary of Retroactive Application of IUF From 2014 through 2021

Enterprise Fund	Amount
Water	\$210,085
Sewer	\$134,317
Solid Waste	<u>\$9,208,572</u>
Total Annual Improvement Costs	<u>\$9,552,974</u>

1. Study Objectives & Background

Bartle Wells Associates (BWA) was engaged by the City of Oxnard (the “City”) to perform an Infrastructure Use Fee Study. The objective of this study is to 1) use the best available data, specific to the City, to quantify the proportion of pavement degradation on the City’s streets and alleys reasonably attributable to use by the water, wastewater, and solid waste enterprises, and then 2) apply the calculated proportions to actual past spending and projected future spending on street maintenance. This process requires incorporation of the City’s financial data, pavement management system data, pavement design criteria, and results from an Oxnard pavement survey performed in 2022.

Legal Environment

Utility rates are subject to the procedural and substantive requirements as set forth in Proposition 218. Since utility rates may pay to the City’s General Fund an amount equal and proportional to the cost of street damages by the utility, the amount transferred must comply with Proposition 218.

Proposition 218 was adopted by California voters in 1996 and added Articles XIII C and XIII D to the California Constitution. Article XIII D, Section 6 governs property-related charges which, as the California Supreme Court subsequently ruled, includes ongoing utility service charges such as water and wastewater charges. Article XIII D, Section 6 establishes: 1) procedural requirements for imposing or increasing property-related charges, and 2) substantive requirements for those charges. Article XIII D also requires voter approval for new or increased property-related charges but exempts from this voting requirement rates for water, wastewater, and refuse collection services. The substantive requirements of Article XIII D, Section 6(b) require the City’s utility rates to meet the following conditions:

1. Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
2. Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
3. The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.
4. No fee or charge may be imposed for a service unless that service is used by, or immediately available to, the owner of the property in question.
5. No fee or charge may be imposed for general governmental services, such as police or fire services, where the service is available to the public at large in substantially the same manner as it is to property owners.

City of Oxnard Streets

The City maintains a street network of 1,034 lane miles of roadway comprised of arterials, collectors, residential streets, and alleys.

Arterials serve as the primary conduits for mobility and circulation through metropolitan areas. They serve the major activity centers, tie into larger circulation elements like freeways, carry the highest traffic volumes, and typically have the greatest number of travel lanes. Arterials will generally try to connect and provide continuity throughout the urban corridor and area, both locally and regionally.

Collectors serve a critical role as they 'collect' traffic from local and residential streets and guide traffic to arterial streets. These will generally have lower traffic volumes and travel lanes compared to arterials. Collectors will typically connect residential and commercial areas at greater distances and traffic volumes compared to residential streets.

Residential streets serve as the primary access to residences. Multiple residential streets will connect to a collector or arterial as a means of reaching other sections of the metropolitan area. These roads generally have low traffic volumes, less travel lanes, and lower posted speed limits.

Alleys are located between or behind buildings, serve as an access to private property and have the lowest traffic volumes.

Pavement Deterioration

Pavement deteriorates from two processes: fatigue and aging. The processes occur simultaneously. In a well-designed and constructed pavement, the two processes result in the need to rehabilitate the pavement at approximately the same time. This is called the design life. The design life for most new pavements is approximately twenty years, based upon many factors. Each aging process has its own set of pavement defects that are related to the process.

Fatigue

The first deterioration process is fatigue from axle loads. Roads generally consist of an asphalt concrete layer, base, and sub-base layers. Asphalt concrete is composed of aggregates bound by asphalt cement and may include other binders or add-mixtures. The base and sub-base layers consist of aggregates of different thickness. As the pavement structure flexes or bends from wheel loads, the asphalt concrete layer's ability to flex is consumed. With enough bending, the asphalt concrete layer begins to break at the bottom. These cracks progress upward until they reach the surface and appear as alligator cracking.

Aging

The major element of the pavement structure that ages is the asphalt concrete layer. To a minor extent, aggregate bases can age if contaminated by fine soil particles or water, which are transported from the subsoil into the aggregate base. Asphalt concrete is composed of aggregates bound by asphalt cement. The aggregates experience some breakdown over time. Aggregate aging problems can be addressed in maintenance procedures. The asphalt concrete binder (asphalt adhesive) ages as well. As the asphalt binder ages, it loses volume through the loss of volatile components in the asphalt. As the volume decreases, the pavement will progressively crack from the resulting tensile strain in the layer. Normally, these cracks first show up as transverse cracks. They also show up in weak areas, such as paving joints. These cracks widen and increase over time until the pavement has a checkerboard appearance. The aging process also causes the pavement to become more brittle. The increased stiffness results in additional

cracking from loaded vehicles. This load induced cracking from the brittleness of the asphalt concrete is very similar to fatigue cracking in appearance. The major agent for deterioration of the asphalt concrete binder is oxygen. The carrier of the oxygen is water. Water enters the pavement either from the surface or as water vapor from underneath due to leaks or breaks in the underground water or wastewater infrastructure.

2. Water and Wastewater Infrastructure Use Fees

The underground infrastructure (UI) of the City's water and wastewater utilities impose ongoing wear on the streets above the UI. There are many ways the presence of UI causes the pavement above to degrade including gradual leaks causing added moisture, subsidence around the UI, utility trench patches (both visible and covered pavement resurfacing) as a result of accessing the UI, and points of weakness caused by UI access points (manholes, valves, etc.).

The City estimates that approximately 90 percent of its roadways have some kind of UI underneath them. However, this study focuses only on the impact from visible utility trench patches because visible utility trench patches are the only cause of pavement degradation that can currently be directly quantified. Visible utility trench patches are captured in the street survey used to update the pavement management system, which impacts the overall PCI score of the City streets. The PCI score is the basis of the City's pavement capital spending budget and informs the type and quantity of pavement projects performed by the City.

In short, this study's estimates of the impacts from water and wastewater UI are very conservative, as they omit factors that are undisputable but also difficult to quantify.

Pavement Management

The City tracks the condition and maintenance requirements of its streets using a pavement management system. The pavement management system is updated annually with data collected from street condition surveys. Based on the street condition data, the pavement management system calculates the Pavement Condition Index (PCI) score of the City's streets, which reflects the condition of the streets. The score is on a scale from 0 (worst) to 100 (best). The current PCI score drives the projected capital spending budget produced by the pavement management system. The City surveys the conditions of one third of its streets every year, completing a full survey of its streets every three years.

Utility Trench Patching

Occasionally a utility will need to access its UI. To access the UI, the utility will cut out a section of the street and dig a trench down to the buried UI. When the project is completed, the utility fills in the trench and patches over the road. Damage to the street occurs because the UI repair lowers the structural integrity of the roadway asphalt. The opening of the trench reduces the lateral support of the pavement, creating a zone of weakened pavement and reducing the lifespan of the pavement. Improperly backfilled and compacted trenches create sagging or slumping, also reducing the lifespan of the pavement. Additionally, introducing cuts to the pavement will lead to water intrusion, resulting in the loss of fine materials from the underlying backfill material, which reduces pavement strength and the life of the pavement.

Because trenches negatively impact pavement, visible trench patches are one of the types of pavement degradation that are noted in the pavement condition survey. The presence of a trench patch will reduce the PCI score of the pavement segment being measured. The PCI score reduction will vary depending on the size and severity of the trench patch and the overall PCI of the roadway segment.

The following photos show a utility trench and trench patch.

Figure 1 – Utility Trench and Trench Patch



Portion of Street Wear Attributable to Utility Trench Patching

The City engaged its pavement management consultant to specifically identify the visible trench patches above water and wastewater UI in the recent pavement condition survey and then calculate the PCI of those segments both with and without the visible trench patch included in the calculation.

The consultant surveyed a representative sample of the City’s roadways, comprising more than 20 million square feet of pavement. Of the roadways surveyed, the consultant found 3.96% of the area was impacted by visible trench patches over water and wastewater infrastructure.

Table 3 – Survey Results: Area Impacted by Visible Trench Patches

Total Area (SqFt) Reviewed:	20,170,387
Total Area (SqFt) with Visible Underground Utility Trenches:	720,744
Percentage of Total Area with Visible Underground Utility Trenches:	3.57%

The pavement management consultant then calculated the weighted average PCI score (PCI score weighted by area) of the segments with visible trench patches for the total sample area (shown in the following table).

Table 4 – Survey Results: Average Weighted PCI Score

Average Weighted PCI Score of Roadway Area Reviewed:	66.9
Weighted Average PCI of Sections with Visible Underground Utility Trench:	45.7

The consultant then broke the sample area into tiers based on PCI score and calculated the weighted average impact of visible trench patches on the PCI within those tiers. The “Weighted Average PCI Score Impact” in Table 5 is the difference between the PCI score with the impact from visible trench patches included and the PCI score without the impact from the visible trench patches included. This is the impact attributable to the visible utility trench patches.

Table 5 – Survey Results: Average Weighted PCI Score

Category Condition	Area (SqFt)	Patch (SqFt)	Weighted Average PCI Score Impact
Excellent (100-91)	0	0	N/A
Fair (90-71)	0	0	N/A
Fair (70-51)	377,185	1,701	-1.67
Poor (50-31)	246,014	2,607	-3.69
Failed (30-0)	176,170	1,310	-0.90

This breakdown by tier is important because the impact from trenching differs based on the preexisting PCI score: A given trench will have a greater impact on a stretch of road with an “Excellent” PCI score than that same trench will have on a stretch of road in the “Fair” PCI tier (See Table 6). To normalize the impact from visible trenches, therefore, this study looks at the “average of the average,” applying the average impact of trenches on the PCI tier where the average trench is located. The weighted average PCI score of the sections surveyed with visible trench patches (PCI score of 45.7) fell in the poor category condition (PCI score of 50 – 31). The average PCI reduction due to the presence of visible trench patches for street segments in the poor category condition range was 3.69, making that figure the reasonable average impact from visible utility trench patches.

To verify the results, the pavement management consultant also ran a simulation to see the average impact of utility patches to the PCI score. Specifically, they looked at data for a street segment with a four-foot (4’) patch of low severity running along the length of the segment as compared to the same street segment without the patch. The results of this simulation are shown in the following table. The simulation confirms that there will be an impact and shows a visible trench patch having a greater impact than the impact found from the survey. The impact to the poor category condition from the simulation of 3.76 closely aligns with the impact identified in the survey of 3.69.

Table 6 – Trench Patch PCI Score Impact Simulation

Condition Category	Number of Sections	Area (SqFt)	Average Difference
Excellent (100-91)	280	13,157,391	-15.07
Good (90-71)	983	37,925,648	-7.89
Fair (70-51)	594	23,168,188	-5.40
Poor (50-31)	266	10,317,564	-3.76
Failed (30-0)	373	6,828,507	-1.72
Total	2496	91,397,298	-6.74

The average PCI score of all the sections surveyed was 66.9. A street with no degradation would have a PCI score of 100. The average deterioration can be represented by subtracting the average PCI score from 100. ($100 - 66.9 = 33.1$ points of degradation have occurred). The 3.69-point reduction attributable to the trench patches represents 11.15% of the deterioration of the City's pavement ($3.69 / 33.1 = 11.15\%$).

To calculate the overall impact that trench patches have on all the City's roadways, the percent of the roadways impacted by utility trench patches needs to be multiplied by the amount of deterioration attributable to the trench patches ($3.57\% \times 11.15\% = .40\%$). The portion of the total systemwide degradation attributable to visible trench patches is .40%. These calculations are also shown in the following table.

Table 7 – Impact on Visible Water and Wastewater Trench Patches on Oxnard's Roadways

Column	Visible Water and Wastewater Trench Patch Portion of Pavement Wear	Utility Trench Patch Portion of Pavement Wear	Amount
A	Average PCI Score of Street Sections Surveyed		66.9
B	PCI Score Reduction Due to Visible Underground Utility Trench		3.69
C	Wear on Street Sections with Utility Trenches (100-A)		<u>33.1</u>
D	Percent of Wear Due to Utility Trenches (B/C)		11.15%
E	Percent of Total Area (SqFt) Surveyed with Visible Underground Utility Trenches		<u>3.57%</u>
F	Portion of Total PCI Reduction Due to Underground Utility Trenches (D*E)		0.40%

Annual Infrastructure Use Fee Derivation

The following Water and Wastewater IUFs reflect the water and wastewater portion of total pavement degradation applied to the average annual planned capital spending and the annual street repair operating budget. This is the same methodology a utility would use to determine rates for the next five years. The Water and Wastewater IUFs are derived by 1) identifying the projected average annual pavement spending, 2) multiplying the projected average annual spending amount by the portion of degradation attributable to visible trench patches, and 3) multiplying this product by the portion of total underground infrastructure attributable to the water enterprise and to the wastewater enterprise. Table 8 reflects steps 1) and 2) described above. Table 9 and Table 10 reflect step 3).

Table 8 – Water and Wastewater IUF Derivation

Column	Water and Wastewater Infrastructure Use Fee	Amount
A	Ten Year Projected CIP Spending*	\$193,600,000
B	Average Annual CIP Spending (A/10)	\$19,360,000
C	Annual Projected Street Maintenance Spending**	<u>\$3,533,035</u>
D	Total Projected Annual Costs (B+C)	\$22,893,035
E	Portion of Total PCI Reduction Due to Underground Utility Trenches	<u>0.40%</u>
F	Water and Sewer Underground Utility Trench Portion of Pavement CIP (D*E)	\$91,572

* Projected capital spending (Pavement Engineering Inc., 2021)
 ** Projected annual street maintenance spending excludes all costs that are not asphalt, street striping and pavement repairs costs. The projected amount is also based on the 2023 budget which reflects a full year of the addition of a new street maintenance crew added in 2022.

The water and wastewater IUF then need to be split between the water and wastewater enterprises. The split is based on each enterprise's portions of the total length of the water and wastewater underground infrastructure.

Table 9 – Water and Wastewater Portion of Underground Infrastructure

Water and Wastewater Underground Infrastructure	Length, ft	Portion of Underground Infrastructure
Water Pipe	3,240,359	61%
Wastewater Mains	<u>2,052,803</u>	39%
Total	5,293,162	

Each enterprise's portion of the total water and wastewater underground infrastructure is then multiplied by the water and wastewater IUF to derive the Water IUF and the Wastewater IUF.

Table 10 – Water and Wastewater IUF

Enterprise Infrastructure Use Fee (IUF) Derivation	Portion of Underground Infrastructure	Annual Enterprise IUF
Total Water and Wastewater IUF		\$91,572
Water IUF	61%	\$55,859
Wastewater IUF	39%	\$35,713

Retroactive Application of Annual Water and Wastewater Infrastructure Use Fee Methodology

The City is currently required to refund the entirety of the IUF paid by the water and wastewater enterprises from 2014 through 2021. The following table applies the methodology described in this section to the actual capital and operating costs paid by the City for pavement repair and replacement from 2014 through 2021. It is important to note that these amounts are significantly lower than projected spending because the City only recently approved a much more aggressive Capital Plan to significantly improve the average pavement condition of its streets.

Table 11 – Retroactive Application of Water and Wastewater IUF Methodology

Fiscal Year	Actual Pavement Expenditures	Water and Wastewater Impact on Pavement	Water and Wastewater Portion of Pavement Expenditures
	A	B	A x B
2014	\$2,834,169	0.40%	\$11,337
2015	\$6,552,205	0.40%	\$26,209
2016	\$12,470,126	0.40%	\$49,881
2017	\$5,597,925	0.40%	\$22,392
2018	\$16,490,042	0.40%	\$65,960
2019	\$14,626,086	0.40%	\$58,504
2020	\$9,136,324	0.40%	\$36,545
2021	<u>\$18,393,589</u>	0.40%	<u>\$73,574</u>
Total	\$86,100,465		\$344,402
Water Portion		61%	\$210,085
Wastewater Portion		39%	\$134,317

3. Solid Waste Collection Infrastructure Use Fee

Residential streets and alleys in the City are designed to support light residential traffic and are generally designated as “light traffic streets” by the City. Because light traffic streets are not designed to support heavy vehicles, the City restricts commercial vehicles weighing more than five tons from traveling on light traffic streets except in specific circumstances². One of the exceptions to the restriction of heavy commercial vehicles traveling on light traffic streets is the collection of solid waste. Solid waste collection vehicles have an average weight of about twenty tons and make a minimum of three collection passes per week to collect different types of waste from customers receiving solid waste service. The following section of this report quantifies the cost of the wear that heavy, solid waste collection vehicles place on light traffic streets for the benefit of property owners receiving solid waste collection service.

Solid Waste Collection in the City of Oxnard

The City provides weekly solid waste collection and disposal service using a three bin system. Each bin contains a different type of waste and is collected separately. This means that solid waste vehicles pass each customer three times per week. Residential customers place their bins in the street or in the alley, depending on the customer’s location. Solid waste for residential customers is performed by side-loading trucks making passes on both sides of the street or alley.



A side-loading solid waste truck collecting a customer's bin on a residential street.

Impacts of Vehicle Traffic on Roadways

Every time a vehicle travels, it causes the pavement to deteriorate. The impact of a vehicle passing over pavement is measured in equivalent 18,000-pound axle loads (ESALs). Each roadway in the City is designed to withstand a certain number of ESALs over a twenty-year period. The total ESALs are linked to pavement design specifications by design Traffic Index (TI) numbers. For example, a design TI of 5 is equal to 7,160 ESALs while a design TI of 8 is equal to 371,676 ESALs³. The pavement with a design TI of 5 will have different design specifications, such as a thinner layer of asphalt, from the pavement with a design TI of 8.

The portion of the total residential street and alley wear in the City reasonably attributable to solid waste collection is determined by 1) identifying the percentage of the total area of the City’s residential streets and alleys where solid waste collection vehicles travel, 2) identifying the percent use of, or wear and tear upon, those streets and alleys that is done by the City’s solid waste collection vehicles, and 3) multiplying the two percentages together. Table 12 and Table 13 identify the percentage of the total area traveled by solid waste vehicles. Table 14, Table 15, and Table 16 identify the percentage of the wear and tear in that area inflicted by the solid waste vehicles. Table 17 and Table 18 multiply the percentages in the previous tables together and apply them to the total cost of maintaining the roadways. Importantly, because this study looks only at the impact on residential streets and alleys, it omits the solid waste utility’s impact on arterials and collectors, even though its vehicles must use those roads to access residential neighborhoods. As with the calculations for the water and wastewater utilities, therefore, the calculations here are conservative.

² City of Oxnard City Code, SEC. 8-3. LIGHT TRAFFIC STREETS DESIGNATED; HEAVY TRUCKS PROHIBITED

³ Pavement Engineering, Inc. 2021.

Residential Street and Alley Area Impacted Solid Waste Collection

The following tables show the area of the residential streets and alleys served by solid waste collection vehicles as a percentage of the total area of the residential streets and alleys.

Table 12 – Residential Street Impact Area by Solid Waste Collection

Column	Solid Waste Collection Residential Street Impact Area	Amount
A	Linear Miles Served by Solid Waste Collection	315.88
B	Linear Feet (A x 5,280)	1,667,846
C	Center Line Feet (two lanes, B / 2)	833,923
D	Width (ft.)	<u>37.77</u>
	Solid Waste Collection Route Residential Street Impact Area (SF) (C x D)	31,497,279
E		
F	Total Residential Street Area (SF)	49,347,106
	Solid Waste Route Portion of Total Residential Street Collection Area (E / F)	63.83%
G		

Table 13 – Alley Impact by Solid Waste Collection

Column	Solid Waste Collection Alley Impact Area	Amount
A	Linear Miles Served by Solid Waste Collection	29.52
B	Linear Feet (A x 5280)	155,866
C	Center Line Feet (one lane, B = C)	155,866
D	Width (ft.)	<u>18.87</u>
	Solid Waste Collection Route Alley Impact Area (SF) (C x D)	2,941,184
E		
F	Total Alley Area (SF)	7,383,148
	Solid Waste Route Portion of Total Alley Collection Area (E / F)	39.84%
G		

ESALs Utilized by Solid Waste Collection

Solid waste vehicles cause a substantial amount of wear to residential streets. Streets are designed to withstand a total number of equivalent single axle loads over their twenty-year lives. The ESAL rating for an automobile is about .001 while the ESAL rating for the City's solid waste collection vehicles are more than 1,000 times greater. To derive the portions of the total annual residential street and alley ESALs used by solid waste vehicles, streets and alleys are considered separately. To calculate the total ESALs that the City's residential streets can bear annually, the lifetime ESALs of the street pavement (determined by the TI of the pavement) is divided by its useful life, yielding ESALs per year. According to the City's pavement engineers, the average TI of the City's residential streets is 6. A street with a TI of 6 is designed to support 33,136 ESALs over a 20-year period.

The next step is to determine the annual ESALs attributable to the solid waste collection vehicles by multiplying the vehicle ESAL by the number of passes it makes on a street per week and then again by the number of weeks in a year (52). As mentioned previously, side-loader trucks serve the City's residential customers. The calculation of the portion of the annual residential street and alley ESAL used by solid

waste vehicles is shown in the following tables. The city's side-loader trucks have a calculated average ESAL of 1.26⁴.

The calculation in Table 14 estimates that solid waste vehicles use 23.72% of the annual ESAL of the residential streets on which they travel.

Table 14 – Solid Waste Vehicles' Portion of Annual Residential Street ESAL

Solid Waste Vehicles' Portion of Annual Residential Street ESAL	Amount
Residential Street TI	6
Residential Street Lifetime ESALs	33,136
Residential Street Useful Life (Years)	<u>20</u>
Residential Street ESALs Per Year	1,656.8
Side-Loader ESALs	1.26
Weekly Side-Loader Passes	<u>6.00</u>
Annual Side-Loader ESALs	392.92
Solid Waste Vehicles' Portion of Annual Residential ESAL	23.72%

The City's alleys are currently largely paved with asphalt and built to a design TI of 5. However, the alley pavement is in the process of being replaced by concrete which has a TI of 6. Concrete has a longer design life than asphalt and the design TI of 6 for concrete is based on a life of 35 years. The following table calculates the weighted average annual ESAL for the City's alleys.

Table 15 – Weighted Average, Annual Alley ESAL

Solid Waste Vehicles' Portion of Annual Alley ESAL	Percent of Alley Area	TI	ESALs	Useful Life	ESALs per Year
Asphalt Alleys	92.93%	5	7,160	20	358.0
Concrete Alleys	7.07%	6	45,000	35	1,285.7
Weighted Average					423.6

As calculated above for the City's streets, the annual ESAL borne by the City's alleys that is attributable to the side-loading trucks is calculated by multiplying the vehicle ESAL by the number of passes it makes on an alley per week and then again by the number of weeks in a year (52). The calculation estimates that side-loading solid waste vehicles use 92.77% of the annual ESAL of the alleys on which they travel.

⁴ The average ESAL calculation for each vehicle type is included in the appendix.

Table 16 – Solid Waste Vehicles' Portion of Annual Alley ESAL

Solid Waste Vehicles' Portion of Annual Alley ESAL	Amount
Alley ESALs Per Year	423.6
Side-Loader ESAL	1.26
Weekly Side-Loader Passes	<u>6.00</u>
Annual Side-Loader ESALs	392.92
Solid Waste Vehicles' Portion of Annual Alley ESAL	92.77%

Derivation of Annual Solid Waste Infrastructure Use Fee

The following Solid Waste IUF reflects the solid waste portion of residential street and alley degradation applied to the average annual planned capital spending and the annual street repair operating budget. This is the same methodology a utility would use to determine rates for the next five years. The Solid Waste IUF is derived by 1) identifying the projected average annual spending on residential streets and alleys, 2) multiplying the projected average annual spending amount by the percent of the roadways impacted by solid waste as calculated above in Table 12 and Table 13, and 3) multiplying this product by the solid waste portion of the annual ESAL as calculated in Table 14, Table 15, and Table 16.

Table 17 – Solid Waste Annual Residential Street IUF Derivation

Column	Solid Waste Share of Annual Residential Street Capital Costs	Amount
A	10 Year Residential Street CIP *	\$95,810,147
B	Average Annual Residential Street CIP (A / 10)	\$9,581,015
C	Annual Maintenance Spending **	<u>\$1,828,140</u>
D	Total Annual Cost (B + C)	\$11,409,154
E	Solid Waste Route Portion of Total Residential Street Collection Area	<u>63.83%</u>
F	Average Annual Residential Street Cost for Solid Waste Routes (D x E)	\$7,282,463
G	Solid Waste Vehicles' Portion of Annual Residential ESAL Load	<u>23.72%</u>
H	Solid Waste Portion of Annual CIP Costs (F x G)	\$1,727,400

* Projected residential street capital spending (Pavement Engineering Inc., 2021)

** Projected annual street maintenance spending excludes all costs that are not asphalt, street striping and pavement repairs costs. The projected amount is also based on the 2023 budget which reflects a full year of the addition of a new street maintenance crew added in 2022. Projected annual street maintenance spending also adjusted to reflect residential street portion of total street and alley area.

Table 18 – Solid Waste Annual Alley IUF Derivation

Column	Solid Waste Share of Annual Alley Capital Costs	Amount
A	10 Year Alley CIP*	\$5,951,796
B	Average Annual Alley CIP (A / 10)	\$595,180
C	Annual Maintenance Spending**	<u>\$273,520</u>
D	Total Annual Cost (B + C)	\$868,700
E	Solid Waste Route Portion of Total Alley Collection Area	<u>39.84%</u>
F	Average Annual Alley Cost for Solid Waste Routes (D x E)	\$346,090
G	Solid Waste Vehicles' Portion of Annual Alley ESAL Load	<u>92.77%</u>
H	Solid Waste Portion of Annual CIP Costs (F x G)	\$321,068

* Projected alley capital spending (Pavement Engineering Inc., 2021)

** Projected annual street maintenance spending excludes all costs that are not asphalt, concrete, street striping and pavement repairs costs. The projected amount is also based on the 2023 budget which reflects a full year of the addition of a new street maintenance crew added in 2022. Projected annual street maintenance spending is also adjusted to reflect alley portion of total street and alley area.

Table 19 – Total Solid Waste Annual IUF Derivation

Annual Solid Waste IUF	Amount
Solid Waste Portion of Annual Residential Street Spending	\$1,727,400
Solid Waste Portion of Annual Alley Spending	<u>\$321,068</u>
Annual Solid Waste IUF	\$2,048,468

Retroactive Application of Annual Solid Waste Collection Infrastructure Use Fee Methodology

The City is currently required to refund the entirety of the IUF paid by the solid waste enterprise from 2014 through 2021. The following table applies the methodology described in this section to the actual capital and operating costs paid by the City for street and alley repair and replacement from 2014 through 2021. The residential street and alley impacts are adjusted to reflect their portion of the overall roadway area in the City. The portion of total area is shown in Appendix A.

Table 20 – Retroactive Application of Annual Solid Waste Collection IUF Methodology

Retroactive IUF Application				
Impact Percentage		Solid Waste Res. Streets	Solid Waste Alleys	
Total City Pavement Area (SF) ⁵		95,367,462	95,367,462	
Impacted Area (SF)		<u>31,497,279</u>	<u>2,941,184</u>	
Portion of Total Area Impacted (SF)		33.03%	3.08%	
Solid Waste Impact		<u>23.72%</u>	<u>92.77%</u>	
Impact from Solid Waste on Total Paved Area		7.83%	2.86%	

Fiscal Year	Actual Maintenance and Capital Expenditures	Solid Waste Res. Streets	Solid Waste Other (Alley)	Solid Waste Total
2014	\$2,834,169	\$222,031	\$81,088	\$303,119
2015	\$6,552,205	\$513,304	\$187,464	\$700,768
2016	\$12,470,126	\$976,918	\$356,780	\$1,333,698
2017	\$5,597,925	\$438,545	\$160,161	\$598,706
2018	\$16,490,042	\$1,291,842	\$471,793	\$1,763,634
2019	\$14,626,086	\$1,145,818	\$418,464	\$1,564,281
2020	\$9,136,324	\$715,746	\$261,397	\$977,143
2021	\$18,393,589	\$1,440,967	\$526,255	\$1,967,221
Total		\$6,745,172	\$2,463,400	\$9,208,572

⁵ Includes all arterials, collectors, residential streets, and alleys.

4. Summary and Recommendations

The results from the analysis performed in this study demonstrate that the activities of the City's water, wastewater, and solid waste enterprises cause annual degradation to the City's roadways. The analysis in this study conservatively estimated the magnitude of annual roadway degradation by focusing only on directly quantifiable roadway degradation from solid waste collection vehicle loads and visible utility trench patching. The project team believes the cost of the actual annual damage attributable to the City's water, wastewater, and solid waste enterprises is greater than the amounts represented in Tables 21 and 22.

Nonetheless, Table 21 below provides a summary of the projected annual cost of the impact to the roadways grouped by water, wastewater, and solid waste enterprise funds for FY 2023/24. Table 22 applies the same methodology to actual costs from 2014 through 2021.

Table 21 – Summary of Annual IUF by Enterprise

Annual IUF	Amount
Water	\$55,859
Sewer	\$35,713
Solid Waste	<u>\$2,048,468</u>
Total IUF	<u>\$2,140,040</u>

Table 22 – Summary of Retroactive Application of IUF From 2014 through 2021

Enterprise Fund	Amount
Water	\$210,085
Sewer	\$134,317
Solid Waste	<u>\$9,208,572</u>
Total Annual Improvement Costs	<u>\$9,552,974</u>

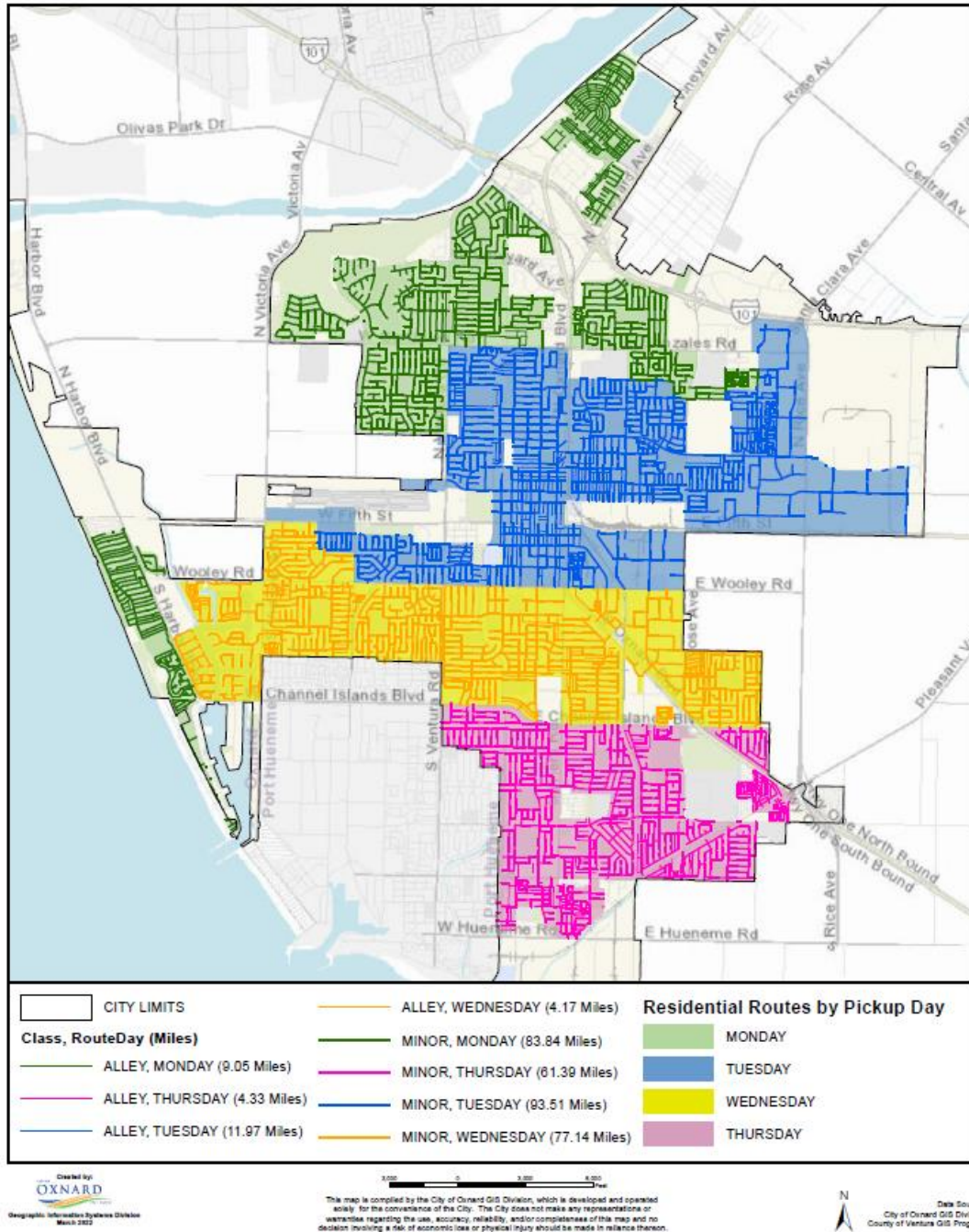
Recommendations

- Annual transfer should be no more than the amounts identified in Table 22 above. These amounts should be increased annually by a cost index such as the Engineering News Record Construction Cost Index, as the underlying CIP costs are in today's dollars and will therefore also increase due to inflation.
- Review transfer amount periodically as street conditions and projected maintenance costs change. The project team recommends a period of around five years, although factors specific to the City over the next few years may of course make a shorter or longer period more appropriate.

Appendix A

Solid Waste Collection Routes

RESIDENTIAL ROUTE MINOR ROAD & ALLEY MILEAGE



Solid Waste Collection Vehicle Weight - Side-Loader



WEIGHT DISTRIBUTION TABLE

GENERAL INFO	
CUSTOMER	CITY OF OXNARD
CHASSIS	AUTOCAR ACX
WHEELBASE (WB)	210
CAB TO AXLE/TANDEM (CA/CT)	165
CHASSIS FRONT AXLE WEIGHT	10410
CHASSIS REAR AXLE WEIGHT	6285
BODY TYPE	ASL
AXLES	3
BODY WEIGHT	15500
BODY CG LOCATION	125
PAYLOAD CG	210
AXLE SPREAD (in)	210
AXLE SPREAD (ft)	18
GVWR	51,500

FUEL	
FUEL TYPE	CNG 80DGE
FUEL MOUNT LOCATION	ROOF MOUNT
FUEL WEIGHT	1,500
FUEL CG LOCATION	70.00

FRONT AXLE CAPACITY	20000
---------------------	-------

REAR AXLE GROUP CAPACITY	
SINGLE REAR AXLE CAP	0
TANDEM AXLE CAP	36000
TAG AXLE CAP	0
PUSHER AXLE CAP	0

TAG AXLE WEIGHT	0
PUSHER AXLE WEIGHT	0

MAX PAYLOAD	17,805
-------------	--------

	FRONT AXLE	REAR AXLE GROUP	TOTAL
AXLE RATING (GAWR)	20,000	36,000	
CHASSIS	10,410	6,285	16,695
PUSHER/TAG AXLE	0	0	0
FUEL	1,000	500	1,500
CHASSIS WEIGHT SUBTOTAL	11,410	6,785	18,195
AMREP BODY WEIGHT	6,274	9,226	15,500
TARE	17,684	16,011	33,695
MAX PAYLOAD (BRIDGE LAW)	21	17,784	17,805
MAX PAYLOAD (AXLE CAP.)	2,316	19,989	22,305
MAX PAYLOAD (ACTUAL)	21	17,784	17,805
GROSS WEIGHT	17,705	33,795	51,500

City of Oxnard Street Area by Functional Class

Functional Class	Surface Type	Lane Miles	Pavement Area/ Square Feet
Arterial	AC	133.8	12,243,465
	AC/AC	71.0	6,666,656
	PCC	1.8	138,050
Collector	AC	31.3	3,404,902
	AC/AC	12.5	1,177,261
Major Collector	AC	42.1	4,264,961
	AC/AC	24.5	2,573,937
Minor Arterial	AC	47.1	4,173,926
	AC/AC	44.6	3,917,730
	PCC	0.7	76,320
Other	AC	117.0	6,614,992
	AC/AC	5.3	284,075
	PCC	9.3	484,081
Residential/Local	AC	424.3	41,984,477
	AC/AC	66.8	6,880,665
	PCC	4.3	481,964
Grand Total:		1,036.4	95,367,462

Residential SF 49,347,106
Residential % 51.74%

Other 7,383,148
Other % 7.74%

Solid Waste Vehicle Weight and ESAL Calculation

The City uses side-loader trucks for residential collection on streets and alleys. The tare weight of a collection truck is the weight while it has no waste load. The average load weight is the weight of the load (loaded truck weight – tare weight) when a truck returns to drop off a full load. This was based on a survey of a load for a two-week period. The average load weight is half of the final load. This reflects the average weight from the beginning to the end of collecting a load. The tare weight plus average load weight of a solid waste truck is the projected average load plus the tare weight of the truck. The ESAL of a solid waste truck is calculated by applying the average weight per axle to the ESAL formula and then taking the sum of the calculated ESAL of each axle. Tandem axles spread the weight of a load over two axles.

Calculation of Solid Waste Collection Truck Equivalent Single Axle Loads (ESALs)

Side Loader Solid Waste Truck Characteristics	Tare Weight <i>LBS</i>	Final Load Weight <i>LBS</i>	Average Load Weight <i>LBS</i>	Tare Weight + Average Load Weight <i>LBS</i>	Average ESALs ^{1,2} <i>ESALs</i>
Front Axle	17,684	17.5	9	17,693	0.93
Rear Axle (Tandem ³)	<u>16,011</u>	<u>14,832.0</u>	<u>7,416</u>	<u>23,427</u>	<u>0.33</u>
Total	33,695	14,850	7,425	41,120	1.26

¹Equivelant Single Axle Loads (ESALs)

²ESALs = ((axle load)/18,000)^{4.2}

³Tandem Axle ESAL Formula = ((tandem axle load/2)/18,000)^{4.2} x 2

MEMORANDUM

Date:	01/08/2024	Project Number:	1360.55.2301
To:	Juanita C. Guzman - Administrative Services Manager, City of Oxnard		
From:	Debaroti Ghosh, PhD and Margot Yapp, PE		
Subject:	Peer Review of City of Oxnard's Pavement Impact Cost Study		

Background

The purpose of this project was to carry out a peer review of a study performed by Bartle Wells Associates (Study) ("Annual Enterprise Pavement Impact Cost Reimbursement Study" dated May 5, 2023, which is attached as Appendix A) on the pavement impact costs caused by water, wastewater and solid waste utilities and included the following:

- An assessment of the submitted information and a determination of whether the proposed methods are consistent with standard engineering practices and/or applicable regulations/codes.
- A technical memorandum summarizing NCE's findings.

It is NCE's understanding that the Courts invalidated the entire Infrastructure Use Fee (IUF) due to the absence of supporting methodology demonstrating the quantified wear and tear on City streets and its correlation to the fee charged against the enterprise funds. The Study was in response to the Court's ruling. NCE's directive was to identify any technical issues or concerns associated with the fees proposed in the Study.

Peer Review

The objectives of the Study were to first analyze and quantify the annual damage to the City's streets caused by the water, wastewater, and solid waste enterprises and, second, to determine how much these enterprises should compensate the City for the cost of the damages through a transfer to the General Fund. The study has two parts:

- Impact of Water and Wastewater Utility Cuts on Pavements
- Impact of Solid Waste Enterprise on Pavements

As part of the peer review process, NCE reviewed the Study (Appendix A) and subsequently formulated a questionnaire addressing various technical aspects and topics in need of clarification. Upon receiving the City's responses (included in Appendix B), NCE finalized this technical memorandum.

17050 Bushard Street, Suite 200,
Fountain Valley, CA 92708
(714) 848-8897

Impact of Water and Wastewater Utility Cuts on Pavements

The analysis was based on a field evaluation of 705 sections. Out of 705 sections, only 21 sections had utility cuts which represented approximately 4% (by area) of the total sections. The PCI of the sections with cuts varied between 0 and 70 and had an area-weighted average PCI of 47.7. Furthermore, an evaluation was performed on the same 21 sections after excluding the cuts, and the PCI reduction was determined based on condition categories (Table 5 from the report in Appendix A).

Since the average PCI of 21 sections with cuts was observed to be 47.7, (“Poor” condition category), only the PCI reduction from this condition category was used to calculate the overall impact and Infrastructure Use Fee (Tables 7 and 8 from Appendix A).

Technical Concerns

1. The City has an average network PCI of 60, and this includes pavements in all condition categories (ranging from 0 to 100). However, the study assessed only 21 sections with cuts with a PCI ranging from 13 to 66. No sections with cuts from the “Good” condition category were assessed. However, new streets or streets with high PCI (Good Condition) typically will undergo more damage due to utility cuts compared to the streets in poorer condition categories. The analysis should include a sample set that is more representative of the city’s network.
2. The study examined a total of 705 sections of which 21 sections had cuts. The sample size of 705 sections included only the collectors and residential streets located in the Rotation B area, which is part of the City’s normal rotation for its Pavement Management Program field review. The Study did not indicate if the Rotation B area is representative of the City’s network.
3. The selected 21 sections represented approximately 3.96% of the total area. No statistical analysis was conducted to check if the impact of the cuts on the pavement was significant or not. Because of the small sample size, this is a critical step before developing any impact fees.
4. In the Study, only sections in the “Poor” condition category were used to calculate their impact on pavements and attendant fees. However, the impacts of cuts are different on streets with different condition categories. Notably, the impact tends to be more pronounced on new streets or those with high PCIs as compared to older streets or those with lower PCIs. The Study’s approach will tend to underestimate the impact fees as a consequence.

It is NCE’s understanding that this was the direction provided by the City to Bartle Wells, but it is NCE’s recommendation that pavements in all condition categories should have been considered to estimate the overall impacts more accurately.

5. The size of the cut is a pivotal consideration when evaluating impacts. A full-block longitudinal trench cut is expected to have more substantial influence on the pavement compared to a smaller cuts, such as a 4-foot by 4-foot cut. The study did not take into account the impacts caused by cuts of different sizes.
6. Residential streets are usually constructed with thinner pavement sections compared to arterials/collectors due to different traffic volumes and loads. Consequently, the impact of cuts is expected to be higher on residential compared to arterials/collectors. The study did not consider the impact of cuts on different functional classes.
7. A decrease in the PCI leads directly to a reduction in the pavement’s service life, which is the major concern in assessing pavement performance. However, the study did not assess the impact on pavement service life; it solely concentrated on PCI reduction. To enhance the study’s technical rigor and support fee development, it would be advantageous to include data showcasing the reduction in pavement service life resulting from cuts.

Recommendations

To fully understand the impact of utility cuts on pavements, NCE recommends investigating both the structural and functional deterioration of pavements due to utility cuts. The impact of the cuts can be evaluated using two approaches: a historical evaluation using the PMS database and a field evaluation testing actual sites. This will result in a more robust and defensible analysis.

- Historical evaluation includes analysis of functional damage on the pavement due to cuts using past pavement distress inspection data and rehabilitation history from the StreetSaver database. This analysis involves comparing the PCI of pavement sections with and without cuts, categorized by various functional classes, PCI groups, or age groups. Subsequently, the percentage reduction in the remaining service life of the pavement is computed based on the PCI, using deterioration curves to estimate the influence of cuts on the pavement's overall service life. A tiered fee schedule can then be developed that will more accurately assess the impacts.
- Field evaluation includes the analysis of both functional and structural damage on pavement caused by cuts based on the existing site with cuts for varying functional classes and PCI-groups or age-groups. Deflection testing using a falling weight deflectometer would assess loss of structural capacity due to cuts at the sites. A PCI survey would assess the functional damage of the testing sites.

While the historical evaluation includes analysis of hundreds of data points, the field evaluation includes analysis of approximately 24-30 data points based on present existing sites with cuts. Marrying these two evaluation approaches yields a robust fee schedule that accounts for both functional and structural damage based on past and present circumstances.

1. Since the City maintains a StreetSaver database and inspects the network regularly, NCE recommends using this database for historical evaluation. This would include streets across all condition categories.
2. The Study evaluated 21 sites with utility cuts and focused only on functional deterioration. NCE recommends investigation of structural deterioration as well.
3. The study tested 21 actual sites with cuts. Testing paired sections (section with and without cuts) from each of 21 sites with similar traffic level and environmental factors for functional and structural damage will provide a more realistic approach and robust background for fee development.
4. A statistical analysis is recommended to establish confidence in the analysis and development of the fee schedule.
5. NCE recommends a tiered fee approach which would include functional class, pavement condition (PCI-groups or age-groups) and size of the cut.

Impact of Solid Waste Enterprise on Pavements

The impact of solid waste enterprise was analyzed on the residential streets and alleys in the City in terms of Equivalent Single Axle Load (ESALs). The street wear was determined by identifying the percentage of the total area of the City's residential streets and alleys where solid waste collection vehicles travel, identifying the percentage use of wear and tear upon those streets and alleys from solid waste collection vehicles, and multiplying the two percentages together.

Technical Concerns

1. The study did not analyze the impact on major streets (arterials/collectors) which can be considerable. It is NCE's understanding that direction provided by the City was to focus only on residential streets and alleys;

nonetheless, it is our recommendation that a fuller picture of the impacts should include major streets as these streets are used to access the residential/alleys and the dumpsites.

2. According to the 1993 AASHTO Guide for Design of Pavement Structures, the Load Equivalent Factor (LEF) of vehicle axles needed to calculate the number of ESALs depends on structural number and serviceability index. The structural capacity of flexible (asphalt concrete [AC]) pavement structures is represented by a Structural Number (SN), which is a metric that identifies the ability of the pavement to sustain existing or design traffic loads. It includes consideration of the combination of layer types, thicknesses, drainage, and condition, with values typically ranging from 1 to 7. A rating of 7 represents the stiffest or strongest combination or the highest structural capacity. Serviceability is another way of representing pavement condition in terms of ride quality and associated distress conditions and is quantified in terms of the Present Serviceability Index (PSI). The PSI varies between 5 (best) and 0 (worst). In practical terms, pavements with a PSI of 4.5 is the maximum, and pavements with a PSI of 1.5 or less are considered relatively unsafe to traverse and in need of reconstruction.

A City's pavement network is usually comprised of pavements in all condition categories. Consequently, the Equivalent Single Axle Loads (ESALs) capacity of the entire pavement network depends on the current condition category breakdown. The ESAL capacity of pavements in "Good" condition is higher than that for pavements in "Fair" or "Poor" condition. The ESAL capacity is considered zero for the pavements in "Failed" condition.

The impact on pavement is determined by dividing demand in ESALs by capacity in ESALs. When the pavement condition or structure undergoes changes, both capacity (denominator) and the impact of traffic demand (numerator) change, and this transformation is non-linear. Consequently, the impact will not shift linearly, as both the denominator and numerator are contingent on the breakdown of the city's pavement condition category.

If a truck runs on a new pavement, the impact is higher compared to a truck running on an old and distressed pavement. Similarly, if a truck runs on a thicker pavement, the impact is lower compared to the truck running on thinner pavement. If the variables are combined (new or old thick pavement vs new or old thin pavement), the impact of the traffic demand on the pavement is not linear and changes with structure and condition. Consequently, a detailed analysis is recommended which would consider all these factors to be checked for the vehicle impact.

It is NCE's understanding that the approach of analyzing impacts only on new pavement was based on numerous discussions between City staff and the consultant.

3. If the City's annual maintenance is insufficient to maintain the pavement condition, the pavement will deteriorate, and the impact of heavy vehicles will change as pavement condition changes. Thus, it is important to analyze the vehicle impact each year over the analysis period to capture the actual impact and develop a realistic fee. This interactive analysis was not performed to assess the pavement deterioration over a 5-year period.

Recommendations

1. Since the City manages a robust PMS database, NCE recommends using the StreetSaver software to perform a budget analysis for the next 5 or 10 years (analysis period to be determined) to obtain PCI projection and condition category breakdown for future years. Following this, the ESALs of heavy vehicles and City's pavement ESAL capacity should be calculated based on each year's projected PCI or condition in order to develop a fee that is more reflective of the City's conditions.
2. Heavy vehicles use arterials/collectors (major streets) to access the residential and alleys and get to the dump sites. The impact on the major streets can be as significant as on the residential streets. While NCE

understands that the Study was directed to be conservative (i.e. err on under-recovery of impact fees), NCE recommends that the analysis include the impacts on major streets and consider the development of a separate fee structure specifically for these major streets.

Concluding Remarks

Overall, the analysis process presented in the report represents a valid approach to present the financial damage to the City's street. However, due to the reasons above, the estimated fee for impacts of water and wastewater utility cuts on pavement was underestimated as it did not include the impact of cuts on pavements in "Good" or "Fair" condition. The impact of solid waste enterprise vehicles on pavements also under-estimated the damage fee as it only considered residential streets and alleys.

Annual Enterprise Pavement Impact Cost Reimbursement Study

Michael L. Wolfe, PE
Director of Public Works

Public Works and Transportation Committee, February 11, 2025
City Council, March 4, 2025

That the City Council receive and file the Annual Enterprise Pavement Impact Cost Reimbursement Study.

That the City Council receive and file the Pavement Impact Cost Reimbursement Study.

- Enterprise Funds (Water, Wastewater, Solid Waste)
- Infrastructure Use Fee Transfer
 - Transfer \$ from Enterprise funds to General Fund
 - Enterprise Fund Allocation Study (HF&H report 2014)
 - Calculates Enterprise's share of three areas
 - Public Safety (police/fire)
 - Governmental facilities
 - Right-of-way maintenance (pavement maintenance)
- Lawsuit
 - 2014 based IUF transfer violates CA constitution (Article XIII D)
 - 2021 judgement - cease IUF (forward; back reimbursement)
 - 2021 reduced water, wastewater, and solid waste rates

- Judgement
 - Without prejudice for future IUF

The Judgement states, “...[the] ruling is without prejudice to the City’s establishment of an IUF transfer methodology which reasonably represents the actual cost to the City’s public safety, governmental agency, and streets and roadways maintenance funds of providing water, waste water and solid waste disposal services to property owners.”

The Judgement further states, “Article XIII D does not prevent City from charging an IUF to cover such indirect costs.”

- City hired a consultant for new IUF report
 - Excludes public safety and governmental facilities
- New report focus - street paving
 - quantifiable data (e.g. PCI, solid waste routes, truck weights)
 - includes info from field inspections
 - Identifies damage by utilities on street pavement
- Methodologies are summarized in the staff report
- Peer-reviewed
 - Conservative, valid approach

- There is no fiscal impact to receive/file this report
- The new IUF is approximately \$2.1M/year
 - Water \$55,859; Wastewater \$35,713; and Solid Waste \$2,048,468
- Water rates (approved May 2023) no IUF component
 - Staff will recommend IUF in next rate case analysis
- Solid waste rates (approved April 2024); IUF included Jan 2025
- Wastewater rates actively in review
 - Staff will recommend IUF in next rate case analysis



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.2

DATE: March 4, 2025

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400, javier.chagoyenlazaro@oxnard.org

SUBJECT: FY 2024-25 Mid-Year Budget. (15 minutes)

RECOMMENDATION

That the City Council:

1. Receive an update on the FY 2024-25 revenue and expenditure projections for major funds; and
2. Approve budget amendments to the General Fund (101), Street Maintenance Infrastructure Use Fee Fund (105), Special Districts Fund (120), Transportation Development Act Fund (212), Capital Outlay Fund (301), Developer & Other Deposits Fund (541), Environmental Resources Operating Fund (631), Public Liability and Property Insurance Fund (701), and the Facilities Maintenance Fund (735) as explained in this report.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/5G_rb22P0TI

BACKGROUND

The purpose of this report is to provide a financial update for FY 2024-25. All references to fund balances are based on FY 2023-24 unaudited financial statements. FY 2024-25 projections for revenue and expenditures for major funds are based on five months of actuals and seven months of estimates. Capital Improvement Projects (CIP) projections assume that projects will be executed in FY 2024-25 as budgeted. At the end of the fiscal year, those projects that were not completed will be evaluated to determine if the unspent appropriation is carried over to FY 2025-26. There is one exception to this assumption which pertains to any Environmental Resources (Fund 631) funded capital project which is projected based on actual FY 2024-25 anticipated spending, reflective of a pause in spending on these projects.

Fund balance is a measure of the resources available in a governmental fund, accumulated from prior years. Generally Accepted Accounting Principles (GAAP) establishes categories of fund balance for financial reporting based on the type and source of constraints placed on how the resources can be spent. Unassigned funds are funds that can be used for any purpose. For budgetary purposes, unassigned funds are also known as surplus funds. This report makes reference to the estimated total fund balance, and describes the surplus fund balance for the General Fund only.

Note: Amounts shown throughout this report may not sum up to the exact totals shown in the PowerPoint presentation due to rounding differences.

MID YEAR PROJECTION

General Fund (101)

Revenues: Fiscal Year (FY) 2024-25 General Fund revenues are projected at \$237.7 million, up \$1.7 million from the

revised budget of \$236 million. The increase primarily results from the following main factors: a \$1.5 million increase in mutual aid reimbursement revenue, \$0.4 million increase in cannabis tax, and \$0.4 million increase in property and transfer tax. Other general fund revenues are anticipated to end the year a combined \$0.5 million higher than originally projected.

The General Fund sales tax revenue projections declined slightly from \$113.6 million to \$112.5 million, a \$1.1 million decrease due to an estimated reduction on disposable income for taxable spending as a result of higher consumer spending on services (non taxable) rather than taxable goods, and overall increased risk factor given federal and state funding uncertainties. Sales and use tax revenue projections were created in consultation with the City's sales tax consultants, and include the 1% Bradley Burns sales tax and 1.5% Measure E sales and use tax.

Expenditures: FY 2024-25 General Fund expenditures are projected at \$289.2 million, \$5.5 million dollars above the revised budget of \$283.7 million. The increase in estimated expenditures primarily results from \$1 million necessary to fund the Sidewalk Repairs Citywide capital project, \$0.1 million to fund homeless encampment abatement needs, \$0.2 million to fund the illegal dumping abatement program, \$1.2 million anticipated increase in Police department overtime due to backfilling of vacant positions, Fire department net increase of \$3.8 million resulting from increases of \$2.5 million in unbudgeted expenditures related to mutual aid response, \$1.7 million from unrealized vacancy related savings, and \$0.6 million in increased funding needs for the replacement of personal protective equipment, contracting services, match funds for awarded grants, station maintenance costs, and cost of up-fitting new fire engines. This total increase of \$4.8 million is partially offset by \$0.9 million in anticipated overtime savings, for a net increase of \$3.8 million. Projected savings of \$0.8 million in other departments not noted above is primarily a result of additional vacancy savings and reduced spending on professional contracts.

Fund Balance: The City's mid-year projections for General Fund revenues (\$237.7 million) and expenditures (\$289.2 million) would result in a projected ending fund balance on June 30, 2025 of \$46.9 million, of which \$12.2 million is projected to be surplus fund balance. The projected surplus fund balance assumes the full execution in FY 2024-25 of \$35.8 million in capital improvement projects.

For additional details, refer to the General Fund table in the attached Power Point presentation (slide 4).

Measure O (Half-Cent Sales Tax - Fund 104)

Revenues: FY 2024-25 Measure O Fund revenues are now projected at \$21.1 million, down \$0.5 million from the revised budget of \$21.6 million. This reduction is due to a \$0.9 million projected sales tax decline based primarily on expectations in sales tax trends as projected in consultation with the City's sales tax consultants, which is partially offset by a \$0.3 million increase in projected interest revenue.

Expenditures: FY 2024-25 Measure O Fund expenditures are projected at \$37 million, in line with the revised budget.

Fund Balance: Updated projections for Measure O Fund revenues (\$21.1 million) and expenditures (\$37 million) would result in a projected ending fund balance on June 30, 2025 of \$13.7 million. The projected ending fund balance assumes the full execution in FY 2024-25 of \$27 million in capital improvement projects.

For additional detail, refer to the Measure O Fund table in the attached PowerPoint presentation (slide 5).

Water Funds (601 & Related)

Revenues: FY 2024-25 Water Fund revenues are now projected at \$71.0 million, up \$0.1 million from the revised budget of \$70.9 million. Water consumption is down, but is offset by new adopted rates, resulting in no anticipated material revenue variance.

Expenditures: FY 2024-25 Water Funds expenditures are projected at \$112.9 million, which is in line with the revised budget. The revised expenditure budget includes \$31.3 million in project carryovers and budget amendments approved by City Council.

Fund Balance: The FY 2024-25 projections explained above for Water Fund revenues (\$71.0 million) and expenditures

(\$112.9 million) would result in a projected ending fund balance on June 30, 2025 of \$108.1 million. The projected ending fund balance assumes the full execution in FY 2024-25 of \$41.1 million of capital improvement projects in the Water Fund.

For additional detail, refer to the Water Funds table in the attached PowerPoint presentation (slide 6).

Wastewater Funds (611 & Related)

Revenues: FY 2024-25 Wastewater Fund revenues are now projected at \$73.7 million, \$57.1 million lower than the revised budget of \$130.8 million. \$53.2 million of this variance is related to timing of Debt proceeds for large capital projects related to the State Revolving Fund (SRF) loan. These proceeds are anticipated to be received over multiple fiscal years, with \$30 million anticipated in FY 2024-25. Fees and charges for services are projected less than budget by \$4.7 million at \$40.4 million, due to a continuing decrease in water consumption across residential and commercial customer categories over the past few years.

Expenditures: FY 2024-25 Wastewater Fund expenditures are now projected at \$164.8 million, lower by \$3.1 million from the revised budget total of \$167.9 million. Operating savings are driven by salary and benefits of \$1 million due to vacancies, and by professional services projected \$2 million lower than budget due to lower than anticipated spending on consulting, services and other activities including digester inspections and cleaning, biosolids, co-thickening and interstage pump reallocation studies.

Fund Balance: The FY 2024-25 projections explained above for Wastewater Fund revenues (\$73.7 million) and expenditures (\$164.8 million) would result in projected ending fund balance at June 30, 2025 of \$128.2 million. The projected ending fund balance assumes the full execution in FY 2024-25 of \$125.5 million in capital improvement projects.

For additional detail, refer to the Wastewater Funds table in the attached PowerPoint presentation (slide 7).

Environmental Resources Funds (631 & Related)

Revenues: FY 2024-25 Environmental Resources Fund revenues are projected at \$62.2 million, up \$3.1 million from the revised budget of \$59.2 million. This \$3.1 million projected increase reflects estimated Fees for services inclusive of adopted FY 2024-25 rates effective July 1, 2024.

Expenditures: FY 2024-25 Environmental Resources Fund expenditures are projected at \$64.2 million, down \$3.9 million from the revised budget total of \$68.1 million. This reduction is due to anticipated reduced spending in capital projects of \$4.4 million and a \$0.5 million savings in salaries and benefits due to vacant positions. The total reduction is partially offset by a \$1 million dollar increase in Infrastructure Use Fee (IUF).

Fund Balance: The FY 2024-25 projections explained above for Environmental Resources Fund revenues (\$62.2 million) and expenditures (\$64.2 million) would result in a projected ending fund balance on June 30, 2025 of \$9.8 million. The projected ending fund balance assumes partial execution in FY 2024-25 of \$0.8 million of capital projects (of the \$5.3 million of total capital project appropriations) in the Environmental Resources Fund.

For additional detail, refer to the Environmental Resources Funds table in the attached PowerPoint presentation (slide 8).

Golf Course Fund (651)

Revenues: FY 2024-25 Golf Fund revenues are projected at \$7 million, an increase of \$0.05 million compared to the revised budget of \$6.9 million due to increased projected interest revenue.

Expenditures: FY 2024-25 Golf Fund expenditures are projected at \$9 million, in line with the revised budget.

On December 17, 2024, City Council approved the recognition of additional golf course revenues of \$353,550 and appropriation of additional expenses of \$662,890. This amendment to the Golf Course Fund revenue and expenditures has already been included in the revised budgets referred to above.

Fund Balance: The FY 2024-25 projections for the Golf Fund include revenues of \$7 million and expenditures of \$9 million that would result in a projected ending fund balance on June 30, 2025 of \$47.4 million. The projected ending fund balance assumes the full execution in FY 2024-25 of \$1.9 million in capital improvement projects in the Golf Fund.

For additional detail, refer to the Golf Funds table in the attached PowerPoint presentation (slide 9).

RECOMMENDED MID-YEAR BUDGET AMENDMENTS

General Fund (101)

Recommend \$1,692,362 increase in revenues and \$5,459,247 increase in expenditure appropriation, for a net use of surplus fund balance in the amount of \$3,766,885. Refer to the General Fund (101) Mid-Year Projection revenues and expenditures discussion and to Attachment 2 FY2024-25 General Fund (101) Summary of Changes for the details.

Street Maintenance Infrastructure Use Fee (105)

Recommend \$1,024,234 increase in revenue to reflect the Infrastructure Use Fee (IUF) to be collected from the Environmental Resources Fund (631); refer to the detailed explanation provided that follows in Fund 631.

Special Districts Fund (120) / Subfunds (6090 & 4020)

Recommend \$30,000 increase in revenue and \$34,635 increase in expenditure appropriation, of which \$4,635 is from available fund balance.

\$30,000 in revenue and expenditure appropriation is requested to record a transfer of developer deposits (Fund 541) to CFD-9 (Subfund 6090) to cover formation costs incurred by the consulting firm NBS and attorney fees from Norton Rose Fulbright LLP.

\$4,635 in expenditure appropriation from available fund balance is requested to increase the WAD Zone 2 (Subfund 4020) professional services account for the purpose of performing community requested maintenance items with unspent donation funds remaining from Fiscal Year 2023-24 budget allocation of \$15,446 per agreement A-8531 approved by City Council on October 3, 2023.

Transportation Development Act (TDA) Fund (212) / Subfund (9040)

Recommend \$120,000 in expenditure appropriation from the available fund balance.

The maintenance of the John C. Zaragoza Transit Oxnard Center is funded by the Transportation Development Act (TDA) Article 4 funds, administered and distributed annually by the Ventura County Transportation Commission (VCTC). This fiscal year, there are a couple of one-time projects underway at the OTC for ADA improvements and minor upgrades to the City's Electric Vehicle (EV) charging stations. To fully fund these projects, an appropriation of \$120,000 is needed.

Capital Outlay Fund (301)

Recommend a total \$1,157,551 in transfer in capital revenue and the corresponding capital appropriation. \$1,000,000 is reflective of the Citywide Sidewalk Improvement Project (C2561) funded from the General Fund (101). \$157,551 is related to an existing Measure O (Fund 104) funded project, PACC Tier 2 Seismic Evaluation (existing in M2307, but transferring to C2553, no change to project description) as part of the CIP consolidation and requires the corresponding capital transfer in and expenditure appropriation.

Developer & Other Deposits Fund (541)

Recommend a \$30,000 increase in expenditure appropriation from the available fund balance. The expenditure appropriation is requested to record a transfer of developer deposits to CFD-9 (Fund 120 / Subfund 6090) to cover formation costs incurred by the consulting firm NBS and attorney fees from Norton Rose Fulbright LLP.

Environmental Resources Operating Fund (631)

Recommend \$1,024,234 in expenditure appropriation. This amount reflects the reinstatement of the newly calculated Infrastructure Use Fee (IUF) for the current fiscal year. The IUF was included as part of the FY 2024-25 cost of service (COS) study completed in 2023 and used as the basis for implementing new adopted rates, but was not included as part of

the FY 2024-25 Adopted Budget due to pending litigation at the time. An updated IUF study has been completed, which updated the methodology used to calculate the IUF.

Public Liability & Property Insurance Fund (701)

Recommend \$1,600,000 in expenditure appropriation from the available fund balance. Liability claims expense (which includes attorney's fees, costs, and settlement payments) has averaged around \$2.5 million annually. However, in Fiscal Year 2023-24, the adopted budget for liability claims expenses was increased from \$2.5 million to \$4.3 million due to a large number of claims being settled in that fiscal year.

In Fiscal Year 2024-25, the adopted budget for liability claims expense was \$2.9 million. However, due again to a higher than normal number of large claims being settled during the fiscal year, as of December 2, 2024, approximately \$2.3 million has been spent fiscal year to date, with a remaining balance of approximately \$0.6 million. It is now expected that total claims expenses will be closer to \$4.5 million in Fiscal Year 2024-25. This variance is more a function of timing and when the claims are settled/paid out. Further, all of these large claims were fully expected and reserved in the liability reserve account. Therefore, staff is requesting an additional appropriation of \$1.6 million to the Public Liability and Property Insurance fund in Fiscal Year 2024-25.

Facilities Maintenance Fund (735)

Recommend \$178,657 expenditure appropriations from available fund balance. The Public Works Department requests appropriating \$178,657 from available fund balance to ensure the division is able to maintain services and resources that are crucial to sustain and further improve operations. Utility increases in electricity, water and wastewater are projected to be higher than budget as a result of inflation.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The financial impact of each recommended action is spelled out in the "Discussion" section that describes that action.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Tanya Williams, Budget Manager

ATTACHMENTS

1. FY 2024-25 Budget Mid-Year Review Presentation
2. FY 2024-25 General Fund (101) Summary of Changes

FY2024-25 MID-YEAR BUDGET REVIEW

City Council
March 4, 2025

Tanya Williams, Budget Manager

The City Council:

- A. Receive an update on the latest FY 2024-25 revenue and expenditure projections for major funds; and
- B. Approve budget amendments in the General Fund, Street Maintenance Infrastructure Use Fee Fund, Special Districts Fund, Transportation Development Act Fund, Capital Outlay Fund, Developer & Other Deposits Fund, Environmental Resources Operating Fund, Public Liability & Property Insurance Fund, and the Facilities Maintenance Fund.

FUND BALANCE SUMMARY (IN MILLIONS)

3

Fund	FY25 YE Est. Revenues	FY25 YE Est. Expenditures	FY 25 Est. annual surplus/(deficit)	FY25 Beginning Unaudited FB	FY25 Projected Ending FB
101 - General Fund	237.7	289.2	(51.6)	98.4	46.9
104 - Measure O	21.1	37.0	(15.9)	29.7	13.7
601 & related - Water Funds	71.0	112.9	(42.0)	150.1	108.1
611 & related - Wastewater Funds	73.7	164.8	(91.0)	219.2	128.2
631 & related - ER Funds	62.2	64.2	(2.0)	11.8	9.8
651 - Golf	7.0	9.0	(2.1)	49.5	47.4

GENERAL FUND 101 (IN MILLIONS)

4

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Property Tax & Transfer Tax	72.8	73.2	+0.4	0.6%
Sales Tax - Measure E	57.9	56.8	(1.1)	-1.9%
Sales Tax	55.7	55.7	+0.0	0.0%
Business License Tax	7.0	7.0	+0.0	0.0%
Transient Occupancy Tax	5.8	5.7	(0.1)	-1.3%
Franchise Tax	4.8	4.8	+0.0	0.0%
Cannabis Tax	1.1	1.5	+0.4	36.4%
Other Non-Tax Revenues	30.9	33.0	+2.0	6.6%
Total	236.0	237.7	+1.7	0.7%
Expenditures				
Police	85.9	87.0	+1.2	1.4%
Fire	37.5	41.3	+3.8	10.2%
Cultural and Community Svs	19.7	19.7	+0.0	0.0%
Public Works	57.9	59.1	+1.2	2.0%
Administrative Departments	45.2	44.7	(0.5)	(1.1%)
Non-Departmental	37.6	37.4	(0.2)	(0.6%)
Total	283.7	289.2	+5.5	1.9%
Net Annual Surplus / (Deficit)	(47.8)	(51.6)	(3.8)	

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Half Cent Sales Tax Revenue	19.3	18.4	(0.9)	-4.6%
Gen Fund Loan Receipts	1.9	1.9	+0.0	0.0%
Interest Income	0.5	0.8	+0.3	73.0%
Total	21.6	21.1	(0.5)	-2.5%
Expenditures				
Other Community Improvements	5.0	5.0	+0.0	0.0%
Parks & Open Spaces	6.0	6.0	+0.0	0.0%
Public Safety & Gang Prevention	3.5	3.5	+0.0	0.0%
Traffic & Road Improvements	22.5	22.5	+0.0	0.0%
Total	37.0	37.0	+0.0	0.0%
Net Annual Surplus / (Deficit)	(15.4)	(15.9)	(0.5)	

WATER FUNDS (IN MILLIONS)

6

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Fees and Charges	65.9	65.9	+0.0	0.0%
Fines and Misc	0.7	0.7	+0.0	0.0%
Interest	1.9	2.0	+0.1	5.3%
Proceeds (BAB)	2.1	2.1	+0.0	0.0%
Other Revenue	0.3	0.3	+0.0	0.0%
Total (excluding CIP Transfers)	70.9	71.0	0.1	0.1%
Expenditures				
Salaries&Benefits	11.9	11.8	(0.0)	-0.2%
Supplies	3.3	3.3	(0.0)	-0.4%
Services	6.1	6.1	+0.0	0.6%
Utilities	2.2	2.2	+0.0	0.0%
Water Purchases	27.0	26.7	(0.3)	-1.0%
Maintenance	0.2	0.2	+0.0	0.0%
Financing	15.1	15.1	+0.0	0.0%
Capital Expenditures	41.3	41.6	+0.3	0.7%
Transfers Out	5.8	5.8	+0.0	0.0%
Total (excluding CIP Transfers)	112.9	112.9	0.0	0.0%
Net Annual Surplus / (Deficit)	(42.1)	(42.0)	0.1	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Water Operating Fund (601) to the Water Capital Improvement Fund (602) for capital projects.

WASTEWATER FUNDS (IN MILLIONS)

7

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Fees and Charges	45.1	40.4	(4.7)	-10.5%
Fines and Misc	0.4	0.4	+0.0	0.0%
Interest	2.0	2.9	+0.8	40.1%
Proceeds of Debt	83.2	30.0	(53.2)	-63.9%
Other Revenue	0.0	0.1	+0.1	0.0%
Total (excluding CIP Transfers)	130.8	73.7	(57.1)	(43.6%)
Expenditures				
Salaries&Benefits	13.1	12.1	(1.0)	-7.8%
Supplies	3.7	3.8	+0.1	3.3%
Services	5.1	2.9	(2.2)	-42.6%
Utilities	3.9	4.1	+0.1	3.5%
Maintenance	0.1	0.1	+0.0	42.8%
Financing	10.3	10.3	(0.0)	-0.1%
Capital Expenditures	128.0	127.8	(0.2)	-0.2%
Transfers Out	3.7	3.7	+0.0	0.0%
Total (excluding CIP Transfers)	167.9	164.8	(3.2)	(1.9%)
Net Annual Surplus / (Deficit)	(37.1)	(91.0)	(53.9)	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Wastewater Operating Fund (611) to the Wastewater Capital Improvement Fund (612) for capital projects.

ENVIRONMENTAL RESOURCES FUNDS (IN MILLIONS)

8

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Fees and Charges	58.2	61.3	+3.1	5.3%
Fines and Misc	0.3	0.3	+0.0	0.0%
Interest	0.5	0.4	(0.0)	-6.7%
Other Revenue	0.2	0.2	+0.0	0.0%
Total (excluding CIP Transfers)	59.2	62.2	3.1	5.2%
Expenditures				
Salaries&Benefits	26.1	25.6	(0.5)	-2.0%
Supplies	2.0	2.0	+0.0	0.0%
Services	2.5	2.5	+0.0	0.0%
Utilities	15.3	15.3	+0.0	0.0%
Maintenance	0.4	0.4	+0.0	0.0%
Financing	3.4	3.4	+0.0	0.0%
Capital Expenditures*	7.8	3.4	(4.4)	-56.7%
Infrastructure Use Fee (IUF)	0.0	1.0	+1.0	0.0%
Transfers Out	10.5	10.5	+0.0	0.0%
Total (excluding CIP Transfers)	68.1	64.2	(3.9)	(5.8%)
Net Annual Surplus / (Deficit)	(8.9)	(2.0)	+7.0	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Solid Waste Operating Fund (631) to the Solid Waste Capital Improvement Fund (632) for capital projects.

*Capital Expenditures Year-End estimate reflects actual FY24-25 anticipated spending, which may differ from available budgeted project balances at year-end eligible for carryover to FY25-26

	FY24-25 Revised Budget	FY24-25 Year-End Estimate	\$ Change	% Change
Revenues \$ millions				
Fees and Charges	6.5	6.5	+0.0	0.0%
Misc Revenue	0.3	0.3	+0.0	0.0%
Interest Income	0.2	0.2	+0.0	30.4%
Total (excluding CIP Transfers)	6.9	7.0	0.0	0.7%
Expenditures				
Salaries&Benefits	0.0	0.0	+0.0	0.0%
Supplies	0.3	0.3	+0.0	0.0%
Services	4.8	4.8	+0.0	0.0%
Utilities	0.7	0.7	+0.0	0.0%
Maintenance	0.0	0.0	+0.0	0.0%
Financing	0.2	0.2	+0.0	0.0%
Insurance	0.1	0.1	+0.0	0.0%
Capital Expenditures	2.6	2.6	+0.0	0.0%
Transfers Out	0.2	0.2	+0.0	0.0%
Total (excluding CIP Transfers)	9.0	9.0	0.0	0.0%
Net Annual Surplus / (Deficit)	(2.1)	(2.1)	0.0	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Golf Operating Fund (651) to the Golf Capital Improvement Fund (652) for capital projects.

- **General Fund**
 - \$1,692,362 increase in revenues and \$5,459,247 increase in expenditure appropriations, for a net \$3,766,885 use of surplus fund balance
- **Street Maintenance Infrastructure Use Fee (IUF)**
 - \$1,024,234 increase in revenue to reflect the IUF to be collected from the Environmental Resources Fund
- **Special Districts Fund**
 - \$30,000 increase in revenue and \$34,635 increase in expenditure appropriation for a net \$4,635 use of available fund balance
- **Transportation Development Act Fund**
 - \$120,000 increase in expenditure appropriation from available fund balance
- **Capital Outlay Fund**
 - \$1,157,551 increase in both revenue and expenditure appropriations

- **Developer & Other Deposits Fund**
 - \$30,000 increase in expenditure appropriation from available fund balance
- **Environmental Resources Operating Fund**
 - \$1,024,234 increase in expenditure appropriation to reflect the IUF to be paid to the Street Maintenance Infrastructure Use Fee fund
- **Public Liability & Property Insurance Fund**
 - \$1,600,000 increase in expenditure appropriation from available fund balance
- **Facilities Maintenance Fund**
 - \$178,657 increase in expenditure appropriations from available fund balance

The City Council:

- A. Receive an update on the latest FY 2024-25 revenue and expenditure projections for major funds; and
- B. Approve budget amendments in the General Fund, Street Maintenance Infrastructure Use Fee Fund, Special Districts Fund, Transportation Development Act Fund, Capital Outlay Fund, Developer & Other Deposits Fund, Environmental Resources Operating Fund, Public Liability & Property Insurance Fund, and the Facilities Maintenance Fund.



QUESTIONS

ATTACHMEMNT 2

Mid-Year FY 2024-25 General Fund recommended changes In revenue and expenditure appropriations

Revenues \$ Millions	\$ Change
Property Tax & Transfer Tax – updated VLF & transfer tax estimates	+0.4
Sales Tax - Measure E	(1.1)
<i>Decrease due to an estimated reduction on disposable income for taxable spending as a result of higher consumer spending on services (not taxable) rather than taxable goods, and overall increased risk factor given federal and state funding uncertainties</i>	
Cannabis Tax	+0.4
<i>Updated cannabis business tax estimate</i>	<i>+0.4</i>
Other Non-Tax Revenues	+2.0
<i>Increase in mutual aid reimbursement</i>	<i>+1.5</i>
<i>Other general fund revenues</i>	<i>+0.5</i>
Total Revenue Change	+1.7
Expenditures \$ Millions	\$ Change
Police	+1.2
<i>Anticipated increase in Police department overtime due to backfilling of vacant positions</i>	<i>+1.2</i>
Fire	+3.8
<i>Unbudgeted expenditures related to mutual aid response</i>	<i>+2.5</i>
<i>Unrealized vacancy related savings</i>	<i>+1.7</i>
<i>Increased funding needs for equipment, maintenance, services, and grant matching funds</i>	<i>+0.6</i>
<i>Anticipated overtime savings</i>	<i>(0.9)</i>
Public Works	+1.2
<i>Sidewalk Repairs Citywide capital project</i>	<i>+1.0</i>
<i>Illegal dumping abatement program</i>	<i>+0.2</i>
Other Departments	(0.7)
<i>Housing - Homeless encampment abatement needs for the remainder of FY24-25</i>	<i>+0.1</i>
<i>All Other dept's - Vacancy savings and reduced spending on professional contracts</i>	<i>(0.8)</i>
Total Expenditure Change	+5.5
Net Recommended Use of Surplus General Fund (101) Fund Balance	+3.8



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.3

DATE: March 4, 2025

TO: City Council

FROM: Steve Naveau, Human Resources Director, (805) 385-7947, steve.naveau@oxnard.org

SUBJECT: Memorandum of Understanding - Oxnard Public Safety Managers Association. (10 minutes)

RECOMMENDATION

That the City Council of the City of Oxnard adopt a Resolution approving the attached tentative agreement between the City of Oxnard and the Oxnard Public Safety Managers Association (OPSMA) that are proposed to be integrated with the terms of the existing Memorandum of Understanding (MOU) between the City and OPSMA. The integrated document shall be the successor MOU for the term July 1, 2024 through June 30, 2027.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/giD9fekDQVA>

BACKGROUND

The Oxnard Public Safety Managers' Association ("OPSMA") represents 20 employees in the ranks of Police Commander, Assistant Police Chief, Fire Battalion Chief, and Assistant Fire Chief. The attached Resolution and tentative agreement contain the new terms and conditions of employment for employees represented by the OPSMA and are proposed to be integrated with the terms of the existing MOU. The integrated document shall be the successor MOU for the term of July 1, 2024 through June 30, 2027.

Health Benefits

Like many public agencies, the City contracts with CalPERS for medical insurance. CalPERS negotiates directly with a variety of health insurance plans to obtain the most cost-effective rates for its member agencies. Even with this large negotiating power, health care continues to increase at a steady pace with the average increase for medical insurance being 8% per year.

In 2018, the City took the step to increase the City's contribution towards medical coverage, with the intent of providing a benefit that could cover a family plan in at least one medical plan option. That continues to be a guiding principle in the negotiations.

In alignment with this principle, the City and the OPSMA have agreed that the City's contribution towards medical insurance for employees will increase by 5% per year over the three-year term of the contract.

Salary Range Increase

To maintain competitiveness in the labor market, in June 2024, the Council voted to increase the salary range of the Oxnard Peace Officers Association by a total of 18% over three years, which is the subordinate bargaining unit to the Police Commanders and Assistant Police Chiefs. The increase proposed in the OPSMA agreement, which depending on classification ranges from 12.14% to 14.6% over three years, is intended to maintain enough of a salary differential between supervisors and subordinates so that employees will continue to be interested in promoting to higher level positions.

One-Time Annual Retention Payment

As has been discussed a number of times, the recruiting market for police officers is extremely difficult. This is not just an issue with the City of Oxnard, but rather a national issue. The City receives about 50% fewer applicants per year than it did prior to the pandemic. Jurisdictions across the state are extending hiring bonuses from as low as \$10,000 to as high as \$75,000 in an attempt to lure officers from their current employers.

The Council approved the City to offer a hiring bonus of \$20,000 in an effort to bring more experienced officers to Oxnard. The proposed retention payments which total \$16,000 over three years are intended to entice more experienced officers at these higher levels to remain with the City rather than opting to retire. By extending officer retirements the City gains time to hire, develop, and train officers to step into these more senior roles. This is just one prong in a multi-pronged approach to address shrinking officer candidate pools.

Standby

Currently, when certain Police Commanders end their regular shift, they immediately begin to work standby. This means the Commander must be available to immediately return to work if required. The three assignments: Special Operations, Investigations, and Professional Standards are multiyear assignments and so have an impact on an officers off-duty activities. The \$2 per hour is a means for the City to acknowledge the impact this assignment has on both officers and their families. This will cost the City \$39,000 annually.

Holiday Hours

The City is bringing this group into alignment with the same holiday schedule as what the majority of employees in the City currently have. In this instance, it is the inclusion of the day after Thanksgiving as a regular holiday.

Annual Leave Redemption

Employees are allowed to sell back some of their annual leave each year. There is no change in the number of hours per fiscal year that an employee may sell hours back. Prior language provided a window period (January and December) for this to occur. The proposed change only affects when the employee may sell back the hours.

Reopener

The City has agreed to reopen the MOU in the event that the International Association of Firefighters (IAFF), who represent the City's Firefighters, receive increases in their salary ranges in excess of 6% over calendar year 2025 and 2026. This reopener does not bind the City to making any adjustments, but rather provides that the parties will come back to the bargaining table to discuss those increases and potentially agree to some sort of adjustment that would return to Council for review and approval.

Fire Battalion Chief/Assistant Fire Chief Additional Work Hours

This is clean up language specific to the rate of pay that Battalion Chiefs and Fire Chiefs may receive when working a mutual aid assignment.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

The total estimated cost of this package for OPSMA for the 3-year period is \$869,121. This amounts to approximately 15.09% of total compensation, or an average of 5.03% per year. The entirety of this package is attributable to the General Fund. One-time retention bonuses during the term of the MOU totaling \$320,000 do not continue after FY 26-27. As a result, the net ongoing impact of the MOU starting in FY 27-28 is \$549,121.

Labor Costing Methodology vs. Budget Methodology

As staff has shown in prior MOU-related agenda reports, the financial impact may be depicted in two ways. One is a year over year cost increase, which is what is used predominantly in the labor relations field. There are jurisdictions within

Ventura County that depict their employee costs in this manner. This methodology shows what the increased cost is as compared with the previous year. Using this methodology, the impact in Year 1 will be \$282,524, the impact in Year 2 will be an additional \$280,690, and the impact in Year 3 will be a further \$305,907, for a total impact of \$869,121 over the 3-year term, as shown in the chart below.

The other methodology is more common for budget and finance professionals, who compare all the financial costs of that contract to the year before the contract becomes effective (Base Year). This methodology compounds the increased costs over the term of the entire contract. In the case of the resolution presented here, this would be comparing the increase in costs in Year 1 to the budgeted cost of OPSMA in the Base Year, the increase in costs in Year 2 to the budgeted cost of OPSMA in the Base Year, and the increase in costs in Year 3 to the budgeted cost of the group once again in the Base Year. Using this methodology, the budget impact in Year 1 will be \$282,524, the impact in Year 2 will be \$563,214, and the impact in Year 3 will be \$869,121, for a total cumulative 3-year impact of \$1,714,859 as shown in the chart below.

OPSMA MOU Impacts	FY 24-25	FY 25-26	FY 26-27	Total	(Contract Expired) FY 27-28
Labor Methodology	\$ 282,524	\$ 280,690	\$ 305,907	\$ 869,121	\$ 549,121 (a)
% Increase	4.91%	4.87%	5.31%	15.09%	9.53%
Budget Methodology	\$ 282,524	\$ 563,214	\$ 869,121	\$ 1,714,859	
% Increase	4.91%	9.78%	15.09%		
(a) One-time retention payments during the term of the agreement totaling \$320,000 do not continue after FY 26-27. Therefore, the net ongoing impact of the MOU beginning in FY 27-28 is \$549,121.					

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Steve Naveau, Human Resources Director

ATTACHMENTS

1. OPSMA MOU Resolution.v2
2. Attachment 1 OPSMA TA
3. Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING THE
SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
OXNARD AND THE OXNARD PUBLIC SAFETY MANAGERS ASSOCIATION
AUTHORIZING THE CITY MANAGER OR DESIGNEE TO TAKE THE NECESSARY
ADMINISTRATIVE ACTIONS TO IMPLEMENT THE AGREEMENT

WHEREAS, the Oxnard Public Safety Managers Association is the recognized representative for Police Commanders, Assistant Police Chiefs, Fire Battalion Chiefs, and Assistant Fire Chiefs; and

WHEREAS, the City's memorandum of understanding with the Oxnard Public Safety Managers Association expired June 30, 2024; and

WHEREAS, representatives of the City met and conferred in good faith with representatives of the Oxnard Public Safety Managers Association concerning wages, hours, terms, and conditions of employment for employees in the bargaining unit consistent with their obligations under the Meyers-Milias-Brown Act; and

WHEREAS, the City has reached a tentative agreement with the Oxnard Public Safety Managers attached as Attachment 1 of this Resolution which sets forth the modified terms and conditions of employment for this bargaining unit.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD RESOLVES that the tentative agreement attached as Attachment 1 is adopted and the City Manager and/or his designee is directed to perform all acts necessary to implement its terms, including but not limited to executing the successor Memorandum of Understanding with the Oxnard Public Safety Managers Association on behalf of the City.

PASSED AND ADOPTED this 18th day of February 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Luis McArthur, Mayor

ATTEST:

Lourdes A. Lopez, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

City of Oxnard/OPSMA Contract Negotiations
Total Tentative Agreement

Term:

3 Year Term - July 1, 2024 through June 30, 2027

Modify Section 2. Medical Cafeteria

Effective the first full pay period of January 2025 (PP25-2 pay date of 1/24/2025), the City will increase its contribution by 5% per year for those employees in the Level Two medical plan. The new City contribution is as follows and reflects the 5% increase each year:

January 2025 – \$1,956

January 2026 – \$2,053

January 2027 - \$2,156

Modify Section 13 as follows:

Effective the first full pay period of January 2025 (PP25-2 pay date of 1/24/2025), the City shall increase the top of the salary ranges as provided below, including any retroactive pay for employees who did not receive an annual wage increase. In 2026 and 2027 the increases as provided below will occur in the first full pay period of January.

Classification	2025	2026	2027
Police Commander	4.8%	4.8%	4.85%
Assistant Police Chief	4%	4.05%	4.09%
Battalion Chief	9.3%	2.41%	2.43%
Assistant Fire Chief	9.82%	2.02%	2.04%

One-Time Annual Retention Payment

To retain highly qualified management staff the City will provide three annual one-time payments under the following conditions:

To be eligible for the payments described below, the employee must not have received a similar one time payment in a subordinate bargaining unit within the same fiscal year.

- The first full pay period following adoption of the MOU by Council the City shall provide a one-time payment of \$8,000.
- The first full pay period of January 2026 the City will provide a one-time payment of \$5,000.
- The first full pay period of January 2027 the City will provide a one-time payment of \$3,000.

Standby

The City shall provide standby pay of \$2 per hour for Police Commanders who are assigned to one of three division commander assignments, which are: Special Operations, Investigations, and Professional Standards. Police Commanders are only eligible for the \$2 per hour for time subject to call back outside of their regularly scheduled work hours. Police Commanders shall not receive standby when they are actually (physically) responding. Police Commanders not assigned to these three positions may receive on-call compensation when covering for the assigned Police Commander when they are not available. One Police Commander per division assignment is eligible to receive the standby pay at a given time. Police Commanders may not receive standby pay by being on call for more than one division assignment.

Holiday Hours

The City shall add the Day after Thanksgiving as a holiday beginning in 2025. For 56-hour employees, the bi-weekly leave accrual shall increase by .923 hours, and maximum leave balances shall be increased accordingly.

Reopener

The City agrees to reopen the OPSMA contract if the IAFF agreement contains increases in the top of the salary range of more than 3% in 2025, and 2026 for a cumulative amount of 6%.

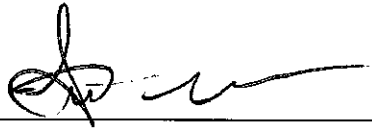
Annual Leave Redemption

OPSMA members shall be permitted to sell back annual leave anytime throughout the fiscal year, provided they do not exceed a total of 160 hours for 40-hour employees and 224 hours for 56-hour employees.

Fire Battalion Chief/Assistant Fire Chief Additional Work Hours

Upon ratification, 40-hour Battalion Chiefs who are deployed on mutual aid assignments shall receive their suppression rate of pay at 1.5 times for all hours worked outside of their regular schedule. An employee who is on a suppression shift and is ordered to work a non-suppression assignment will be paid at their administrative rate of pay while working the non-suppression hours.

For City of Oxnard



For OPSMA



MEMORANDA OF UNDERSTANDING - OXNARD PUBLIC SAFETY MANAGERS ASSOCIATION

Presented to: City Council

Steve Naveau, Human Resources Director

February 18, 2025

- Purpose
 - To adopt successor Memoranda of Understanding (MOUs) with the Oxnard Public Safety Managers Association.
 - This group represents 20 employees
 - Employees in this unit consist of Police Commanders, Fire Battalion Chiefs, Assistant Police Chiefs, and Assistant Fire Chiefs

- Health Benefits
- Market Adjustment
- Retention Payments
- Standby Pay
- Holiday Hours
- Annual Leave Redemption
- Fire Battalion Chief Additional Hours (Mutual Aid)
- Reopener Clause

- **Medical Plan**

- Philosophy – The City should contribute money to a medical insurance plan so that coverage is affordable & treat all bargaining groups the same.
- Intent is to provide sufficient dollar to allow employees to cover a family in at least one medical plan option.
- City contribution should keep pace with annual insurance premium increases to maintain affordability.
 - Kaiser plan generally increases by 5% per year

- **Market Adjustment**

- Jurisdictions in surrounding area have had significant increases in their pay ranges.
- Other local jurisdictions have consistently outpaced this group in salary.
- This adjustment is to the top of the range which only impacts those employees who are at the rate of pay.
- This is needed to remain competitive in the tight labor market.

- **Retention Payments**

- The City will make three one time payments to employees based on their prior 12 months of service.
- Payments are a flat dollar amount. Payments occur in each calendar year and are \$8,000 in 2025, \$5,000 in 2026, and \$3,000 in 2027.
- Payments are not reportable to CalPERS.
- These payments are intended to maintain our current staffing and keep employees from moving to jurisdictions that are providing hiring incentives.

- **Standby Pay**

- Commanders assigned to one of three qualified assignments will receive \$2 per hour in standby pay while not engaged in their work as a Police Commander.
- The Commanders in these assignments have specialized knowledge needed by the City in the event of an emergency and are subject to being called back into work at any time.

- **Holiday Hours**
 - This provision adds the “Day After Thanksgiving” as a holiday which is the same holiday as most other City employees.
- **Annual Leave Redemption**
 - This new language allows employees to cash out their leave at any point in the calendar year. Current language sets window periods which were intended to assist with workload in Payroll which is no longer needed.
 - This is not an increase in the actual benefit.

- Fire Battalion Chief Additional Work Hours

The new language seeks to create equity in Battalion Chief rates of pay when they are responding to mutual aid requests. The current language allows a Battalion Chief who works an administrative shift to receive a higher hourly rate of pay than their colleagues. This serves to maintain equity between employees working the administrative shift and suppression shift.

- Reopener

- The City and OPSMA agree to reopen the contract concerning wages should the International Association of Firefighters (IAFF) secure a contract with salary increases totaling more than 3% per year over the two year period.
- This language does not require the parties to reach agreement, but it does require the parties to negotiate over wages if the conditions are met.

- Using the labor costing methodology, the total estimated cost of this package for the upcoming 3-year period is \$869,121.
 - 15.09% of total compensation / 5.03% per year
- Due to the use of one time retention payments, the net ongoing impact starting in FY 27/28 is \$549,121 or 9.53%.
- The cost of this contract has been assumed in the budget forecasts and as such no additional appropriations are needed.

OPSMA MOU Impacts	FY 24-25	FY 25-26	FY 26-27	Total	(Contract Expired) FY 27-28
Labor Methodology	\$ 282,524	\$ 280,690	\$ 305,907	\$ 869,121	\$ 549,121 (a)
% Increase	4.91%	4.87%	5.31%	15.09%	9.53%
Budget Methodology	\$ 282,524	\$ 563,214	\$ 869,121	\$ 1,714,859	
% Increase	4.91%	9.78%	15.09%		
(a) One-time retention payments during the term of the agreement totaling \$320,000 do not continue after FY 26-27. Therefore, the net ongoing impact of the MOU beginning in FY 27-28 is \$549,121.					

- The **Labor Methodology** illustrates the cost increase in each year independently as a percentage of base compensation.
- The **Budget Methodology** compounds the increased cost over the term of the entire contract as a percentage of base compensation.



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.4

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Grant Application to the Outdoor Recreation Legacy Partnership Grant Program for the Durley Park Improvement Project. (10 minutes)

RECOMMENDATION

That the City Council approve and authorize the:

1. Submission of a grant application to the Outdoor Recreation Legacy Partnership Grant Program in an amount not to exceed \$6,000,000, with a 1:1 match requirement that is currently funded by a state grant, for the Durley Park Improvement Project (Project C2333);
2. City Manager, or designee, to execute the grant agreements;
3. Finance Director, or designee, to submit financial reports, grant claims, and approve budget appropriations for the use of grant funds; and
4. Public Works Director, or designee, to submit non-financial reports.

(This item did not originate in Committee as it is for a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/N1lyFzQdOFk>

BACKGROUND

The Outdoor Recreation Legacy Partnership (ORLP) Program is a National Park Service (NPS) grant program. The ORLP grant involves two competitive layers. First, the California Department of Parks and Recreation's Office of Grants and Local Services (OGALS) competitively reviews the applications. Second, OGALS forwards the selected applications to NPS to compete in the nationwide selection.

The purpose of the ORLP program is to provide new or significantly improved recreation opportunities in disadvantaged urban communities. The program currently prioritizes the selection of projects that are nature-based, where nature is a major element of, or strongly supports, the proposed recreational activity. Additionally, the ORLP program requires a 1:1 match.

The Durley Park Improvement Project is being recommended by staff as a use of the ORLP Grant to supplement the current projected funding deficit. The City has recently been awarded an ORLP grant in the amount of \$6.7M for the Campus Park project under this same program.

Capital Improvement Program (CIP) Reference:

Project No. **C2333** - Durley Park Improvements - CIP 2025-2029 - Adopted June 4, 2024 - Page 75.

DISCUSSION

The City received a grant award in the amount of \$7.1M for the Durley Park Improvement Project on December 8, 2021, under the Proposition 68 Statewide Park Development and Community Revitalization Program. The project has included hiring a third-party design team and several community outreach meetings that have resulted in an iterative design process for some of the park elements. The project is in the final stages of the design, which is roughly 95% complete. Unfortunately, since the grant application was submitted in March of 2021, construction costs have escalated at an alarming rate. With this challenge and the extended research and analysis that was needed due to the estimated construction cost increases, the Durley Park project schedule has been impacted. In addition to the community input driving design changes, cost increases required additional design iterations that were necessary in order to reduce construction costs, but also lengthened the design timeline.

The current construction cost estimate for all of the elements that were selected for the scope of work through extensive community outreach is approximately \$9.7M. However, there is \$5,638,800 remaining within the original grant award, when accounting for the costs for planning and design. Therefore, the project design team used value engineering to reduce the estimated construction costs by moving non-essential project items from the base plan to additional alternates. These additional alternates are anticipated to be bid with the project and based on the bid results or additional funding sources can be included with the project construction. The ORLP Grant is an opportunity to fully fund this project and deliver the original design concepts of the park improvements without another City funding source.

Staff recommends that the ORLP funding be sought to supplement the anticipated budget deficit for the Durley Park Improvement project. The ORLP program, which is federally funded and involves an initial application to the State, has a long fore-period before a grant agreement is executed on awarded projects. If the City is awarded the grant, the grant agreement would likely not be executed until sometime in 2026, after completing the National Environmental Policy Act (NEPA) and Section 106 (the National Historic Preservation Act).

At present, construction with the Prop 68 grant is anticipated to begin in late calendar year 2025. If the ORLP grant is not awarded, the City will know by September of 2025, and the previous grant's construction could begin shortly thereafter, subject to dedicating additional funding. If the ORLP grant is awarded, then construction would not be able to start until NEPA and Section 106 requirements are completed in 2026. If the ORLP grant is awarded, then it would possibly delay the construction start date by ten months to a year. The deadline to expend the grant funds that were previously received by the City for the Durley Park Improvement project is December 31, 2027. While applying for and potentially receiving this new grant may extend the project timeline, staff believes this delay is worth the chance at receiving an additional \$6M for this project to construct the elements the community has requested.

Estimated Timeline:

1. The grant application is submitted to the State by March 11, 2025.
2. State notifies the City regarding if the application will be considered by May 2025.
3. The full application is submitted to NPS by June 2025.
4. The grant award is announced by NPS by September 2025.
5. Section 106 and NEPA are initiated by the City in September 2025.
6. Section 106 and NEPA are completed by September 2026. This typically takes up to one year for NPS to review, but since the project is plan ready and CEQA complete, this may be completed sooner.
7. The grant agreement is executed by September 2026.
8. Construction is initiated on the Durley Park Expansion and Improvement project by November 2026. The previously awarded construction funding (not to exceed \$6M from Project C2333) will be used as the match requirement.

Note that if the grant agreement execution is delayed, there is the option that construction may begin once an award is announced and Section 106/NEPA is complete. A waiver of retroactivity will need to be requested once Section 106/NEPA is complete.

The grant application focuses on adding additional funding to support the Durley Park Improvement project, including the recreation features of the original grant that require additional funding. If this project is funded by the ORLP grant, then the features that would be supported with this additional funding include the skatepark, pump track, exercise equipment,

bleachers, a stormwater system, lighting, additional trees, and the NEPA and Section 106 costs. If the ORLP grant is not awarded, staff will continue to research other funding opportunities to fill the gap for construction based on the current construction cost estimate.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

If awarded, the ORLP grant program funds will be recognized and appropriated to the Federal Grant Fund (200) for an amount not to exceed \$6M. The 1:1 match of up to \$6M will come from previously appropriated State grant funds budgeted for the Durley Park Improvement Project (Project C2333). No additional operating, maintenance, or staffing costs are expected, as the grant would only supplement existing funds and not expand the park area.

Please note that the costs provided in this staff report are estimates and only the actual bids received for construction will provide clarity on costs related to the bid environment at that time.

COMMITTEE OUTCOME

This item did not originate in Committee as this is for a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Steve Howlett, Assistant Public Works Director, Eric Humel, Grants Specialist

ATTACHMENTS

1. Presentation

Grant Application to the Outdoor Recreation Legacy Partnership Grant Program for the Durley Park Improvement Project

City Council
March 4, 2025

Eric Humel, Grants Coordinator
Public Works Department

That the City Council approve the:

1. Submission of a grant application to the Outdoor Recreation Legacy Partnership Grant Program in an amount not to exceed \$6,000,000, with a 1:1 match requirement that is currently funded by a state grant, for the Durley Park Improvement Project (Project C2333);
2. City Manager, or designee, to execute the grant agreements;
3. Finance Director, or designee, to submit financial reports, grant claims, and approve budget appropriations for the use of grant funds; and
4. Public Works Director, or designee, to submit non-financial reports.

Outdoor Recreation Legacy Partnership Program Grant (ORLP)

- The ORLP grant is a program of the National Park Service (NPS)
- The purpose of the ORLP program is to provide new or significantly improved recreation opportunities in urban, disadvantaged communities
- The ORLP program requires a 1:1 match
- The grant application is due March 11, 2025

- The Durley Park Improvement Project is being recommended by staff as a use of the ORLP Grant to supplement the current projected funding deficit
- The City received a grant award in the amount of \$7.1M for the Durley Park Improvement Project on December 8, 2021, and design is roughly 95% complete
- Unfortunately, since the grant application was submitted in March of 2021, construction costs have escalated at an alarming rate
- With this challenge and the extended research and analysis that was needed due to the estimated construction cost increases, the Durley Park project schedule has been impacted

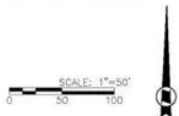
- The current construction cost estimate for all of the elements that were selected for the scope of work through extensive community outreach is approximately \$9.7M
- However, there is \$5,638,800 remaining within the original grant award, when accounting for the costs for planning and design
- Therefore, the project design team used value engineering to reduce the estimated construction costs by moving non-essential project items from the base plan to additional alternates
- The ORLP Grant is an opportunity to fully fund this project and deliver the original design concepts of the park improvements without another City funding source

- Staff recommends that the ORLP funding be sought to supplement the anticipated budget deficit for the Durley Park Improvement project
- The ORLP program, which is federally funded and involves an initial application to the State, has a long fore-period before a grant agreement is executed on awarded projects
- **Due to this, there is potential for a project delay of about one year if the new grant is awarded. However, staff believes that the delay is worth the chance at receiving an additional \$6M for this project to construct the elements that the community has requested**

- If this project is funded by the ORLP grant, then the features that would be supported with this additional funding include the following:
 - skatepark
 - pump track
 - exercise equipment
 - bleachers
 - stormwater system
 - lighting
 - additional trees
 - NEPA and Section 106 costs
- If the ORLP grant is not awarded, staff will continue to research other funding opportunities to fill the gap for construction based on the current construction cost estimate



SCHEMATIC DESIGN DURLEY PARK IMPROVEMENT PROJECT



PROJECT:	DURLEY PARK	PROJECT #	20X115.00
TITLE:	SCHEMATIC DESIGN PLAN	DATE:	10/12/24
DESIGN:	KG	CHECK BY:	JL
		SCALE:	1"=50'
		REV	407

- If awarded, the ORLP grant program funds will be recognized and appropriated to the Federal Grant Fund (200) for an amount not to exceed \$6M
- The 1:1 match of up to \$6M will come from previously appropriated State grant funds budgeted for the Durley Park Improvement Project (Project C2333)
- No additional operating, maintenance, or staffing costs are expected, as the grant would only supplement existing funds and not expand the park area



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. L.5

DATE: March 4, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Public Project Agreement 32500373 with Toro Enterprises, Inc. for Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, Federal Project No. CML-5129(086). (10 minutes)

RECOMMENDATION

That the City Council approve and authorize:

1. A total of \$1,974,588.25 in Project funds for the Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, Federal Project No. CML-5129(086);
2. The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of \$1,645,490.25 for the Project and approve a Project contingency amount of \$164,549, (approximately 10%) with Toro Enterprises, Inc. for a total not-to-exceed value of \$1,810,039.25 for the Project;
3. A Project allocation amount of \$164,549 (approximately 10%) for engineering, inspection, survey and project management for the Project; and
4. A total amount of budget appropriations of \$1,020,244.31 consisting of \$627,906.42 from the Circulation System Improvement Fee Fund (Fund 350, Subfund 8040) available fund balance for the Northeast Communities Project C1302, and \$392,337.89 from the Mobility Fee Fund (Fund 350, Subfund 8055) available fund balance for the Cloyne Street Project C1601 as well as the corresponding Capital Outlay Fund (301) appropriation increase in the same amounts.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/K4faHTEqCM0>

BACKGROUND

The Bicycle & Pedestrian Facilities project (Project) combines the Northeast Community Project (Project No. C1302) and Cloyne Street Project (Project No. C1601). The two projects were designed and bid together to benefit from the economy of scale. The improvements are located on approximately 6.5 miles of neighborhood streets in the Northeast Communities and approximately 1.8 miles on Cloyne Street and Cypress Road between Channel Islands Boulevard and Hueneme Road. The locations were selected to connect neighborhoods and through the concept projects identified in Chapter 6 of the City's Bicycle & Pedestrian Master Plan (BPMP). See the attached location maps for a full list of roadways.

Using the concept designs from the BPMP as a starting point, the designers took into consideration multiple factors, some of which include right-of-way constraints, vehicle speeds, and guidelines from the California Manual on Uniform Traffic Control Devices (MUTCD) to deliver Plans, Specifications and Estimates. The selected project scope is consistent with the grant funding requirements and consists of installing Class II and III on-street bicycle lanes, traffic signal bicycle detection, an overhead flashing beacon system with mast arm, sidewalk, curb extensions, signage, striping and accessible improvements. Class I off-street bike paths are not included in this project due to insufficient right-of-way. Class II on-

street striped bike lanes are included on the larger secondary arterial street, and Class III shared bike routes are appropriate on residential streets where width and parking preclude dedicated lanes.

Bikeway types are designated by the Caltrans Highway Design Manual, and the two types used in this project are generally described as follows:

- Class II Bike Lane: On-street separate striped lane for one-way bike travel adjacent to vehicle traffic.
- Class III Bike Route: On-street bicycle routes designated with signage and shared roadway markings (“sharrows”) identifying a preferred route for bicyclists on streets shared with vehicular traffic.

Capital Improvement Program (CIP) Reference:

Project No. **C1302 and C1601** – Bicycle & Pedestrian Facilities - CIP 2025-2029 - Adopted June 4, 2024 - Page 102.

DISCUSSION

The specific work for this Project includes furnishing all necessary labor, materials, equipment and other incidental and appurtenant work to remove, replace, and construct new dedicated bicycle lanes and shared lanes, an overhead flashing beacon system with mast arm, traffic signal modifications for bicycle detection, concrete sidewalks, curbs and gutters, accessible curb ramps, pedestrian crosswalks, signage, and striping.

The notice inviting formal bids (NIFB) was published on October 31, 2024, both online and in the local newspaper. Additionally, the NIFB was posted on multiple online platforms, including the City’s website, Public Purchase, TriCo, Dodge, BidAmerica and CyberCopy, and distributed directly to 25 contractors who have registered with the City to be notified of Public Project bids within their license category. All bids were due and opened on December 10, 2024. The City received one bid:

Toro Enterprises, Inc.: \$1,645,490.25

The sole bidder is Toro Enterprises, Inc. and its bid is responsive to the City’s NIFB. Following this determination, procurement staff reviewed all documentation received from Toro Enterprises, Inc. and its subcontractor. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project.

Staff reached out to the other six plan holders to understand why they chose not to bid. One responded that they experienced a lack of competitive bids from subcontractors, another did not wish to bid against a former employer, two bid as subcontractors to Toro Enterprises, Inc., and two did not respond to our request. The bidding environment has been and continues to be, saturated due in part to the surge of public project funding that resulted from the Infrastructure Investment and Jobs Act (adopted November 2021) and the American Rescue Plan Act (adopted March 2022). Because the region’s contractors presently have no shortage of similar or larger-scale, longer-term work, there has been a trend of single bidders for the City’s grant-funded transportation projects, as shown below.

2022-PW 18-48	Ventura Boulevard Sidewalk	Single bidder
2022-PW 18-61	Mandalay Bay and Edison Canal Bridge Rehab	Single bidder
2022-PW 19-97	Oxnard & Saviers Traffic Signal Improvements	Single bidder
2022-PW 22-87	Safe Routes to School Infrastructure	Two (2) bidders
2023-PW 21-34	Etting Road Sidewalk and Bicycle Lane*	Single bidder
2023-PW 21-34R*	Etting Road Sidewalk and Bicycle Lane*	Single bidder

2024-PW 24-53	Northeast Communities & Cloyne Project	Single bidder
---------------	--	---------------

*In 2023, the City downscoped the landscaping element and re-bid the Etting Road project in an attempt to reduce cost and solicit additional bidders. The re-bid process delayed the project by seven months and did not result in additional bidders. The downscoped work resulted in a 4% savings.

The cost estimate for the subject contract was \$1.1 million, whereas the bid is \$1.6 million. Unfortunately, high bids have become a statewide trend. At the California Transportation Commission’s 2024 Project Delivery Workshop, Caltrans reported that their estimating tool, which is used by the City’s designers, fell far short as compared to the actual bid amounts derived from the National Highway Construction Cost Index, formally known as the Bid-Price Index. Over the past three fiscal years, construction bids increased 64% over Caltrans’ estimating tool.

Staff analyzed the bid item costs by comparing similar grant-funded transportation awards. While each project has unique factors that impact pricing such as quantity, material specifications, location (Citywide vs. single street), type of roadway (residential vs. arterials), time of year (curing temperature for pavement work), availability of equipment, and evolving market changes, the attached table provides a comparison. Of 11 bid items, more than half were comparable or lower than prior bids, while four were a higher cost. This provides evidence that the City likely received a bid that was on par with comparable work and is not priced outside of what could be reasonably expected, considering the present-day bidding/pricing environment.

Considering all factors, and with the support of Caltrans through an approved Cost-Effectiveness/Public Interest Finding, staff recommends that the City Council award the contract for this Project to Toro Enterprises, Inc. In addition to the project award amount of \$1,645,490.25 Staff recommends authorizing \$329,338 for the project, which includes \$164,549 for project contingency (approximately 10% of the contract costs) and \$164,549 for the cost of engineering services and City staff (approximately 10% of the contract cost). Engineering services include the following activities during construction: engineering, inspection, survey, labor compliance, and project management. These recommendations bring the total estimated cost of the Project to \$1,974,588.25.

The work is tentatively scheduled to begin in Spring 2025 and continue into Summer 2025 (90 working days) absent any delays due to supply chain issues, unforeseen site conditions or weather. City Staff will provide the schedule and expected traffic impacts to Neighborhood Councils and nearby schools including, Pacifica High School, Frank Intermediate, Rio Lindo, Brekke, Rio Rosales, Cesar Chavez, Ramona, Larsen, Blackstock and Hathaway Elementary schools. City Staff and inspectors will oversee the contractor’s responsibility of notifying residents and businesses who are directly impacted by the work. The City’s Public Information Officer will also release social media updates to help keep the wider public informed as well.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for this Project shall not exceed \$1,974,588.25 which includes the construction agreement, contingency, construction management, and project allocation. The Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, is funded with two project account numbers.

Northeast Communities, Project C1302, has an available budget balance of \$865,620.40 from the Federal Transportation Grant Fund (200) and \$9,912.43 from the State Transportation Grant Fund (212). Staff is requesting a budget appropriation of \$627,906.42 from Circulation System Improvement Fee Fund (Fund 350, Subfund 8040) available fund balance for Project C1302.

Cloyne Street, Project C1601, has an available budget balance of \$30,849.07 from the State Transportation Grant Fund (212) and \$47,962.04 from the Traffic Safety Fund (182). Staff is requesting a budget appropriation of \$392,337.89 from the Mobility Fee Fund (Fund 350, Subfund 8055) available fund balance for Project C1601.

There are no other current transportation projects with budgetary shortfalls that would utilize the Circulation System Improvement Fee Fund (350-8040) or Mobility Fee Fund (350-8055). Based upon the amount of traffic control devices and pavement markings already installed throughout the City that are similar to the proposed overhead beacon and pavement markings to be added with this project, the ongoing maintenance cost for this project will be nominal to the annual Traffic Engineering Operating budget. New striping and pavement markings will be maintained in combination with street resurfacing and the overhead flashing beacon is solar powered with a minimum 15-year LED lifespan.

Northeast Communities, Project C1302 - \$1,503,439.25			
FUND	AVAILABLE BUDGET	PROPOSED NEW APPROPRIATION	TOTAL BUDGET
Federal Grant (200)	\$865,620.40	\$0.00	\$865,620.40
TDA Article 3 (Fund 212, Subfund 9030)	\$9,912.43	\$0.00	\$9,912.43
Circulation System Improvement Fee (Fund 350, Subfund 8040)	\$0.00	\$627,906.42	\$627,906.42
Subtotal	\$875,532.83	\$627,906.42	\$1,503,439.25

Cloyne Street, Project C1601 - \$471,149			
TDA Article 3 State Grant (Fund 212, Subfund 9030)	\$30,849.07	\$0	\$30,849.07
Traffic Safety Fund (182)	\$47,962.04	\$0	\$47,962.04
Mobility Fee (Fund 350, Subfund 8055)	\$0	\$392,337.89	\$392,337.89
Subtotal	\$78,811.11	\$392,337.89	\$471,149.00
Total	\$954,343.94	\$1,020,244.31	\$1,974,588.25

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Morgan Kessler, City Engineer, Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. Agreement 32500373
2. Location Maps
3. Bid Comparison Table
4. Presentation

**CONSTRUCTION CONTRACT FOR
BICYCLE AND PEDESTRIAN FACILITIES
NORTHEAST COMMUNITIES AND CLOYNE STREET
SPECIFICATION NO. PW 24-53**

**BY AND BETWEEN
THE CITY OF OXNARD
AND TORO ENTERPRISES, INC.**

THIS CONSTRUCTION CONTRACT (the “Contract”) is made and entered this _____ day of _____, 2025 (“Effective Date”), by and between the CITY OF OXNARD, a California municipal corporation (“City”) and TORO ENTERPRISES, INC. (“Contractor”). Contractor’s license number is 710580. The City and Contractor are sometimes hereinafter referred to as a “Party” and collectively referred to as the “Parties.”

WHEREAS, the City requires construction of the Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street as more fully described in the bid package issued by the City for Specification No. PW 24-53 (the “Project”); and

WHEREAS, on October 31, 2024, the City issued a Notice Inviting Bids and Contract Documents to prospective bidders for the Project. In response, Contractor submitted a Bid which the City determined to be the lowest responsive and responsible bid; and

WHEREAS, Contractor is a duly organized corporation in good standing in the State of California, and represents that it has the background, knowledge, experience, expertise and resources to perform the Work and other obligations encompassed by this Contract; and

WHEREAS, at its meeting held on March 4, 2025, the Oxnard City Council duly accepted Contractor’s Bid Proposal for the Project and directed that a written agreement for the Project be entered into with Contractor; the Public Works Department accepted the Contractor’s Bid Proposal for the Project and directed that a written agreement for the Project be entered into with Contractor; and

WHEREAS, in light of the facts set forth above and the certifications made by Contractor as part of its Bid, the City desires to retain Contractor to perform the construction Work for the Project as set forth in this Contract and in the Contract Documents, as hereinafter described.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Contract by this reference, as though set forth herein.

2. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

- A. Contract Documents. The Contract Documents consist of the following documents, all of which are either attached hereto as exhibits or are incorporated herein by this reference. Said Contract Documents are complementary; what is called for in one is binding as if called for in all, and together constitutes Contractor's performance obligations:
1. Contract and its attached Exhibits, subject to the limitations in Sections 10 ("Prevailing Wage") and 24 ("Ambiguities") with respect to Exhibit "A" (Contractor's submitted Bid Proposal as accepted by the City);
 2. Change Orders issued and approved by the City;
 3. Bid Addenda issued by the City;
 4. Notice Inviting Bids and Instructions to Bidders;
 5. Special Provisions
 6. General Provisions
 7. Appendices
 8. Plans
 9. Bid Forms and attachment thereto;
 10. Performance Bond;
 11. Payment Bond.

3. CONTRACTOR'S OBLIGATIONS

- A. Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents, and to the satisfaction of the Public Works Director or his/her designee (hereinafter the "Project Manager").
- B. Until the acceptance of the Work, the Contractor shall have the responsible charge and care of the Work and of the materials to be used therein, (including materials for which partial payment has been received or materials which have been furnished by the Owner), and shall bear the risk of injury, loss or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the Work.
- C. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance, and shall bear the expense thereof. Where necessary to protect the Work or materials from damage, the Contractor shall, at the Contractor's expense, provide suitable drainage and erect such temporary structures as are necessary to protect the Work or materials from damage.
- D. The suspension of the Work from any cause whatsoever shall not relieve the Contractor of his responsibility for the Work and materials as herein specified. If ordered by the Owner's Representative, the Contractor shall, at the Contractor's sole cost and expense, properly store materials which have been partially paid for by the Owner or which have been furnished by the Owner. Such storage by the Contractor shall be on behalf of the Owner, and the Owner shall, at all times, be entitled to the possession of such materials, and the Contractor shall promptly return the same to the site for the work when requested.

The Contractor shall not dispose of any of the materials so stored, except with written authorization from the Owner.

- E. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, is authorized to act at the Contractor's discretion to prevent such threatened loss or injury, and shall so act as though instructed to do so by the Owner.
- F. Notwithstanding the foregoing provisions of this article, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of five (5) percent of the contracted amount, provided the work is built in accordance with accepted and applicable building standards and the approved Plans and Specifications.

"Acts of God" shall include earthquakes in excess of a magnitude of 3.5 on the Richter Scale, wildfires and tidal waves.

4. LICENSES REQUIRED

- A. The Contractor shall possess a valid Class A General Engineering Contractor's license issued by California State Contractors License Board.
- B. If traffic control in a construction zone is required, it must be performed by a State of California Construction Zone Traffic Control Contractor, Specialty License Classification C-31.
- C. In accordance with Section 7028.15 of the Business and Professions Code, all Contractors shall be licensed in accordance with the laws of the State of California and any Contractor or Subcontractor not so licensed is subject to the penalties imposed by such laws.
- D. The Contractor will also be required to possess a City of Oxnard business license at the time of Contract award.

5. CONTRACT PRICE; PAYMENT AND RETENTION

- A. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor one million, six hundred and forty-five thousand, four hundred and ninety dollars and twenty five cents, (\$1,645,490.25) (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal (attached hereto as Exhibit "A") subject to the provisions of this Contract and the Contract Documents.
- B. Procedures relating to payment and retention are set forth in the Special Provisions.

6. CONTRACT TIME; NOTICE TO PROCEED; TERM

- A. Contract Time. The Work under this Agreement shall be diligently prosecuted to completion before expiration of ninety (90) Working Days, after the issuance of the Notice to Proceed. The City will not issue a Notice to Proceed to the Contractor until this Contract, including payment and performance bonds, insurance documents, business tax certificate have been executed and/or approved by the City.

- B. Notice to Proceed. No work, service, material, or equipment shall be performed or furnished under this Contract unless and until a Notice to Proceed has been given to the Contractor by the City. Contractor shall commence Work pursuant to the Contract Documents and as directed by the City in the Notice to Proceed, and diligently execute the same to completion within the Contract Time. Any Work that is done by the Contractor in advance of such time shall be considered as being done at the Contractor's own risk and responsibility, and as a consequence will be subject to rejection.
- C. Term. The Contract is effective as of the Effective Date listed, and shall remain in full force and effect until the Contractor has completed all Work pursuant to the Contract Documents, the City has accepted all Work, and the Contract Term has ended, unless the Contract has been otherwise terminated by the City.

7. DISPUTE RESOLUTION AND CLAIMS PROCEDURES

- A. Public Contract Code Section 9204. For purposes of any Public Works Claims filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204) under this Contract, the claims procedures in Public Contract Code Section 9204 ("Section 9204") and the provisions of this Section shall apply.
 - 1. In the event of a Section 9204 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 9204 process.
 - 2. Any Public Works Claims not resolved by the Section 9204 procedures (and/or any tort claims) shall be subject to the provisions of the Government Claims Act (Government Code section 810 et seq.).
- B. Public Contract Code Section 20104 et al. For purposes of any Public Works Claims of three hundred and seventy-five thousand dollars (\$375,000) or less filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204), the claims procedures in Public Contract Code Section 20104.2 and the provisions of this Section shall apply.
 - 1. In the event of a Public Contract Code Section 20104 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Public Contract Code Section 20104.2 process.
 - 2. Any Public Works Claims not resolved by the Section 20104.2 procedures (and/or any tort claims) shall be subject to the provisions of Section 20104.4 and the Government Claims Act (Government Code section 810 et seq.).
- C. For disputes or claims that do not constitute Public Works Claims, City and Contractor agree to comply with the following process:
 - 1. Each Party shall designate a senior management or executive level representative to negotiate any dispute.
 - 2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 3. If the issue remains unresolved after ten (10) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between the legal

counsel for each Party. If the above process fails, the Parties may mutually agree to engage in non-binding mediation or arbitration in which the Parties equally share the costs of any mediator or arbitrator, or may proceed with suit or other remedies, subject to the provisions of subparagraph (5) of this Subsection and other applicable provisions and laws.

4. The alternative dispute resolution process set forth herein is a material condition to Contract and must be exhausted as an administrative remedy prior to either Party initiating legal action.
5. The provisions of the Government Claims Act (Government Code section 810 et seq.) are also required prior to initiating suit against the City.

8. TERMINATION OF AGREEMENT FOR CONVENIENCE

- A. The City may, by providing thirty (30) days' advance written notice to Contractor, terminate this Agreement in whole or in part, whenever the City shall determine that such termination is in the best interests of the City, or when it becomes impracticable or impossible to proceed, or because of conditions or events beyond the control of the City. Any such termination shall be affected by delivery to Contractor of a Notice of Termination for Convenience, specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. Upon such termination, the obligations of the Contractor for portions of the Work already performed shall continue.
- B. Upon receipt of a Notice of Termination for Convenience, the Contractor shall, unless the notice directs otherwise, do the following:
 1. Immediately discontinue the Work to the extent specified in the notice.
 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion(s) of the Work that are not to be discontinued.
 3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the Work.
 4. Thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.
- C. Upon such termination, the Contractor will be paid without duplication for:
 1. Work completed in accordance with the Contract Documents prior to the effective date of the Notice of Termination for Convenience;
 2. Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
 3. Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the City no later than ninety (90) days from the effective date of termination, unless extended in writing by the City, upon written request by the Contractor. If the Contractor fails to submit a proposal, the City may determine the amount, if any, due the Contractor as a result of the termination. The City will pay the Contractor the amount it determines is reasonable. If the Contractor disagrees with the amount determined by the City as being reasonable, the Contractor shall provide notice to the City within thirty (30) Days of receipt of payment. Any amount due shall be subject to the dispute resolution provisions set forth in the Contract Documents.

- D. Contractor shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section 8.

9. TERMINATION FOR CONTRACTOR'S DEFAULT

- A. Default. The City may terminate this Contract for Contractor's default as set forth in this Section. The City will consider the Contractor in default of this Contract if, prior to the City's acceptance of the Work, the Contractor:
1. becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work;
 2. abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
 3. disregards written instructions from the City or materially violates provisions of the Contract Documents;
 4. fails to prosecute the Work according to the schedule approved by the Engineer,
 5. disregards laws or regulations of any public body having jurisdiction, or
 6. commits continuous or repeated violations of regulatory or statutory safety requirements.

Notices, and other written communications regarding default between the Contractor, the City, and the Surety shall be transmitted in accordance with Section 25 ("NOTICES") of this Contract.

- B. Notice and Opportunity to Cure. The City will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within five (5) Working Days after receipt. If the Contractor fails to commence satisfactory corrective action within five (5) Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will consider the Contractor in default of the Contract and:
1. will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
 2. may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and
 3. may furnish labor, equipment, and materials the City deems necessary to secure and maintain the Job Site;
- C. Remedies Cumulative. The provisions of this Section shall be in addition to all other legal rights and remedies available to the City. Termination of this Contract will not relieve the Surety of its obligation for any just claims arising out of the Work performed.

10. PREVAILING WAGE

- A. Compliance with State Prevailing Wage Requirements. Pursuant to Labor Code Section 1773, the City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in Ventura County, California from the Director of the Department of Industrial Relations (DIR) for each craft, classification, or type of worker needed to perform the Work required under this Contract. A copy of the

prevailing wage rates are on file at the City's Finance Department/Purchasing Division and shall be made available for review to any interested party on request. In addition, a copy of the prevailing rate of per diem wages may be obtained via the internet at: <http://www.dir.ca.gov/DLSR/PWD>. Contractor and all Subcontractors shall pay not less than said specified State of California rates to all workers employed by them in the execution of the Work contemplated by this Contract, including workers performing Work covered by under Labor Code Sections 1720 and 1720.9. Contractor shall be responsible for using the correct and current prevailing wage rates. Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct prevailing wage.

- B. Conflict. It is further expressly agreed by and between the Parties hereto that should there be any conflict between the terms of this Section 10 and the provisions of Exhibit "A", the terms of this Section 10 shall control and nothing herein shall be considered as an acceptance of the terms of Contractor's Submitted Bid Proposal conflicting with the requirements of this Section 10.
- C. Payroll Records. Contractor must comply with the provisions of Labor Code sections 1776 and 1812 and all implementing regulations, including without limitation, those set forth in Title 8 of the California Code of Regulations, Section 16000 et seq. (hereinafter the "Regulations"), which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.
 1. Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct; and
 - b. Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.
 2. Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.
 3. Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this Section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per Calendar Day, or portion of a Calendar Day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

- D. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated by reference.
- E. Notices. Pursuant to Labor Code section 1771.4, Contractor is required to post all Job Site notices, including prevailing wage rates and other notices as required by regulation.
- F. Other Labor Requirements. Contractor has the responsibility for and shall comply with all other requirements of California Labor Code Section 1720 et seq., the Regulations, and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.
- G. Statutory Penalties. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced as follows:
 - 1. Pursuant to Labor Code section 1775, the Contractor and any Subcontractor under it shall forfeit as a penalty to the City not more than two hundred dollars (\$200.00), for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the DIR for such work or craft in which such worker is employed for any public work done under this Contract by it or by any Subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
 - 2. The Contractor or Subcontractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Contract by the respective contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of this Subsection. In awarding any contract for public work, Contractor must forfeit to City twenty-five dollars (\$25.00) per day for each worker who works in excess of the minimum working hours when Contractor does not pay overtime. In accordance with the provisions of Labor Code Sections 1810 et seq., eight (8) hours is the legal working day.
- H. DIR Monitoring. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.
- I. DIR Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its Subcontractors must be registered with the DIR prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all Subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

11. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of one thousand, two hundred and fifty dollars (\$1,250) per day for each

Calendar Day of unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

12. COMPLIANCE WITH LAWS

Contractor shall comply with all Laws applicable to the performance of the Work required by the Contract Documents, including any rule, regulation, or bylaw governing the conduct or performance of Contractor, its employees, officers, board members, agents, independent contractors, and Subcontractors. Unless otherwise specified in the Contract Documents, all required permits and licenses, including a City business license, shall be held or obtained by the Contractor at its sole expense and prior to commencing any Work hereunder.

13. WORKERS' COMPENSATION CERTIFICATION

Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

14. INSURANCE

Contractor shall procure and maintain at its own expense at all times during the period covered by this Contract (and through the one-year guarantee period following the date of City's acceptance of the Project) the following policies of insurance as approved by the City's Risk Manager as set forth in INS-G attached as Exhibit B to this Contract.

15. FEDERAL GRANT CONTRACT PROVISIONS

Contractor acknowledges that the Project is being funded in part with Federal Congestion Mitigation Air Quality (CMAQ) funds, pursuant to Federal Project No. CML-5129(086) and Caltrans Program Supplement Agreement N068 Rev.1, and further acknowledges and agrees to the provisions in the Federal Grant Contract Addendum attached to this Contract as Exhibit E and incorporated as part hereof by this reference as if fully set forth herein, and the Grant Master Agreement attached to the Contract as Exhibit F and incorporated by reference as if fully set forth herein.

- A. **ACCESS TO RECORDS.** (1) The Contractor agrees to provide the City of Oxnard, Caltrans Administrator, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The Contractor agrees to provide the Caltrans Administrator or his authorized representative access to construction or other work sites pertaining to the Work being completed under the Contract.
- B. **NO OBLIGATION BY FEDERAL GOVERNMENT.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.
- C. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** Contractor must comply with the requirements of the False Claims Act (31 U.S.C.

3729-3733) which prohibits the submission of false or fraudulent claims for payment under a Federal grant funded project. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

- D. **FEDERAL GRANT CONTRACT ADDENDUM.** Additional contractual obligations for this Project are attached to this Contract as Exhibit E "Federal Grant Contract Addendum", incorporated as part hereof by this reference.

16. TIME OF THE ESSENCE

Time is of the essence in the performance of this Contract.

17. INDEMNIFICATION

- A. Notwithstanding the limits of any insurance and to the fullest extent permitted by law, Contractor shall indemnify the City, its elected or appointed officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (hereinafter "Claims or Liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the Work, operations, or activities of Contractor, its agents, employees, Subcontractors, or invitees on the Project, or arising or alleged to arise from the acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Contract, but excluding such Claims or Liabilities or portion of such Claims or Liabilities arising or alleged to arise from the active negligence, sole negligence, or willful misconduct of the City, its elected or appointed officials, officers, agents, volunteers, or employees, and in connection therewith:
1. Contractor will defend any action or actions filed in connection with any of said Claims or Liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
 2. Contractor will promptly pay any judgment rendered against the City, its elected or appointed officials, officers, agents, volunteers, or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', Subcontractors' or invitees') performance of or failure to perform such Work, operations or activities hereunder; and Contractor agrees to save and hold the City, its elected or appointed officials, officers, agents, volunteers and employees harmless therefrom;
 3. In the event the City, its elected or appointed officials, officers, agents, volunteers, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the Work, operation, or activities of Contractor hereunder, Contractor shall pay to the City, its elected or appointed officials, officers, agents, volunteers, or employees, any and all costs and expenses incurred by the City, its elected or appointed officers, officials, agents, volunteers, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City;
 4. Contractor's duty to defend, indemnify, and hold harmless as set out in this Section shall include any claims, liabilities, obligations, losses, demands,

actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of, or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to, the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the PorterCologne Water Quality Control Act, as any of those statutes may be amended from time to time.

- B. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. The Contractor's indemnification and defense obligations pursuant to this Section shall survive the termination of this Contract. Contractor shall require the same indemnification from all Subcontractors.

18. THIRD PARTY CLAIMS

The City shall have full authority to compromise or otherwise settle any claim relating to the Project at any time. The City shall timely notify the Contractor of the receipt of any third-party claim relating to the Project. The City shall be entitled to recover its reasonable costs incurred in providing this notice.

The Contractor shall not have any authority to compromise or otherwise settle any claim relating to the Project; any effort by the Contractor to do so shall be deemed a breach of the Contract, and the City will not participate in any such compromise or settlement. Within five (5) Calendar Days of the date that the Contractor receives any third-party claim relating to this Project, the Contractor shall provide written notice thereof and a copy of the claim to the City Attorney.

19. CONFLICTS OF INTEREST

The Contractor shall not accept any employment or representation during the Contract Term or within twelve (12) months thereafter that is or may likely make the Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by the City on any matter in connection with which the Contractor has been retained pursuant to the Contract Documents."

20. REPORTS; BOOKS AND RECORDS; AUDIT

- A. Upon request by the Project Manager, Contractor shall prepare and submit reports concerning Contractor's performance of the Work required by this Contract.
- B. Contractor shall keep such books and records as shall be necessary to perform the work required by this Contract and enable the Project Manager to evaluate the cost and the performance of such Work.
- C. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles, and Contractor and its subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred Project costs and matching funds by line item for the Project. The Project Manager and the parties specified in the Grant Master Agreement referenced in Section 15 of this Contract and

attached hereto as Exhibit F, shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

- D. Records and supporting documents pertaining to the use of funds paid to Contractor hereunder shall be retained by Contractor and made available to the Project Manager for purposes of performing an audit for a period of five (5) years from the date the City receives its final payment from the State as set forth in Article V ("Audits, Third Party Contracting, Records Retention and Reports") of the Grant Master Agreement in the attached Exhibit F.

21. NONDISCRIMINATORY EMPLOYMENT

- A. The Contractor shall not unlawfully discriminate against any individual based on race, religion or religious creed, color, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, immigration status, citizenship or military and veteran status. The Contractor shall comply with the nondiscrimination mandates of all statutes, ordinances and regulations.
- B. For every Subcontractor who will perform Work on the Project, the Contractor shall be responsible for such Subcontractor's compliance with this Section. The Contractor shall include in the written contract between itself and each Subcontractor a copy of the provisions in this Section and a requirement that each Subcontractor shall comply with those provisions. The Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure Subcontractor's compliance. The Contractor shall diligently take corrective action to halt or rectify any failure to comply.

22. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended only by written Change Orders as specified in the Contract Documents or a written instrument signed by both Parties.

23. ENTIRE AGREEMENT

- A. This Contract supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Contract.
- B. The Contract Documents contain all of the covenants and agreements between the Parties with respect to the subject matter herein, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Contract and the Contract Documents incorporated herein.
- C. No agreement, statement, or promise with respect to the subject matter of the Contract Documents, which is not contained in the Contract Documents, or in a valid modification or amendment to the Contract Documents, shall be valid or binding on either Party.

24. AMBIGUITIES

This Contract is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any

uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Contract. Notwithstanding the foregoing, the Parties agree that Exhibit "A" is attached hereto for reference purposes, and to the extent there are any ambiguities, inconsistencies, or conflicts between the terms of this Contract and Exhibit "A", the terms of this Contract shall control and nothing set forth in Exhibit "A" shall be deemed to supersede any of the provisions of this Contract.

25. NOTICES

- A. Any notice to be provided pursuant to this Contract shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

TO CITY:

City of Oxnard

Public Works Dept, Traffic Div
305 W Third St, East Wing, 3rd Fl
Oxnard, CA 93030

c/o Project Manager PW 24-53

TO CONTRACTOR:

Toro Enterprises, Inc.

2101 E Ventura Bl
Oxnard, CA 93036

Attn: Sean Castillo, President

- B. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.
- C. Either Party, or the surety, may change its address by giving notice in writing to all other parties listed above, and thereafter notices shall be addressed and transmitted to such new address.

26. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Contractor or to its successor(s), or for any breach of any obligation of the terms of this Contract.

27. REVIEW BY ATTORNEYS

Each Party hereto has had its attorneys review this Contract and all related documents. Each Party hereto has consulted with its attorneys and has negotiated the terms of this Contract based on such consultation.

28. BONDS

Concurrently with the execution of this Contract by the Contractor, and before the commencement of any Work, Contractor shall furnish to the City a Performance Bond, and a Payment Bond (Labor and Materials Bond) each in an amount equal to one hundred percent (100%) of the Contract Price written on the forms included in the Contract Documents. These bonds must remain in force until the later of (a) the expiration of the one-year guarantee period; or (b) one year from the date

of completion of the corrective Work. Such bonds must be issued by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California.

29. CARE OF WORK

Contractor must adopt reasonable methods during the life of the Contract to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies, and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the Work by the City, except those losses or damages as may be caused by the City's own negligence. The performance of the Work by Contractor or the payment of money by the City shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective Work (including the obligation to remedy any defective Work or materials during the one-year guarantee period after the City's acceptance thereof) at no further cost to the City.

30. CAPTIONS AND HEADINGS

The captions and headings contained in this Contract are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

31. OWNERSHIP OF DOCUMENTS

No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

32. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Contract shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties. This Contract may not be assigned or transferred by Contractor without the concurrence of the surety and express written consent of the City.

33. GENDER; PLURAL

In this Contract, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

34. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Contract and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

35. GOVERNING LAW

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the Parties under this Contract, shall be construed pursuant to and in accordance with California law.

36. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Contract, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

37. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Contract and all proceedings involving any enforcement action related to this Contract shall be initiated and conducted in the applicable court or forum in Ventura County, California.

38. EFFECTIVENESS OF CONTRACT

This Contract shall not be binding upon the City until signed by the authorized representative(s) of Contractor, approved by the City's Risk Manager and as to form by the City Attorney, and executed by the authorized City personnel or the Mayor.

39. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING CONTRACT

Each of the Parties to this Contract hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Contract a binding obligation of each of the Parties hereto. The persons executing this Contract warrant that they are duly authorized to execute this Contract on behalf of and bind the Parties each purports to represent.

40. WAIVER

No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default under this Contract shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Contract.

41. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor. All persons working for or under the direction of the Contractor are the Contractor's employees, agents, or subcontractors, and they shall not be deemed agents, servants, or employees of the City.

42. COUNTERPARTS

This Contract may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Contract.

43. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by Law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the Contract shall forthwith be physically amended to make such insertion or correction.

44. ATTORNEY'S FEES

If either Party commences an action against the other Party, whether legal, administrative, or otherwise, arising out of or in connection with this Contract, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

[END OF THIS PAGE – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have entered into this Contract effective on the date as stated herein and upon signature of all Parties.

CITY OF OXNARD

TORO ENTERPRISES, INC.

☒ Luis McArthur, Mayor¹ Date
☐ Purchasing Agent

Sean Castillo, President ² Date

Jerry Hannigan, Secretary Date

ATTEST:

Lourdes A. López, City Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

Stephen Fischer Date
City Attorney

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000. The Purchasing Agent may execute any authorized agreement up to \$200,000.
² The City requires the following for any contract:
 • For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
 • For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
 • For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBITS

- Exhibit A:** Contractors Bid Proposal.
- Exhibit B:** Form INS-G: Insurance Requirements.
- Exhibit C:** Iran Contracting Act Certification Form completed by Contractor.
- Exhibit D:** Small / Minority / Women's Business Enterprises and Labor Surplus Area Firm Outreach Plan completed by Contractor
- Exhibit E:** Federal Grant Contract Addendum
- Exhibit F:** Grant Master Agreement
- Exhibit G:** FHWA Form-1273
- Bonds**

The corresponding exhibits and forms contained within follow.

EXHIBIT A**CONTRACTOR'S BID PROPOSAL
BID SCHEDULE****BICYCLE AND PEDESTRIAN FACILITIES
NORTHEAST COMMUNITIES AND CLOYNE STREET
SPECIFICATION NO. PW 24-53**Bidder's Company Name: TORO ENTERPRISES, INC.

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby declares they have carefully examined the locations of the proposed work, the Plans, the Special Provisions, Bid Item Descriptions, and Contract documents; and hereby proposes to furnish all labor, materials, tools, equipment, supplies and incidentals required to complete the work. All of the aforementioned shall be done in accordance with said Plans, Special Provisions, and other Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
1.	Install Type IV Arrow Pavement Marking	1515-4	EA	69	\$240.-	\$16,560.-
2.	Install Detail 9	1515-4	LF	2,844	\$1.35	\$3,839.40
3.	Install Detail 21	1515-4	LF	2,994	\$2.55	\$7,634.70
4.	Install Detail 22	1515-4	LF	2,883	\$3.15	\$9,081.45
5.	Install Detail 27B	1515-4	LF	7,014	\$1.80	\$12,625.20
6.	Install Detail 27C	1515-4	LF	150	\$1.30	\$195.-
7.	Install Detail 29	1515-4	LF	1,594	\$5.10	\$8,129.40
8.	Install Detail 32	1515-4	LF	949	\$4.00	\$3,796.-

PW 24-53

B 8

Section B
Bid Proposal Documents

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
9.	Install Detail 38	1515-4	LF	5,610	\$ 2.60	\$14,586.-
10.	Install Detail 29	1515-4	LF	17,811	\$ 5.10	\$90,836.10
11.	Install Detail 39A	1515-4	LF	775	\$ 1.20	\$ 930.-
12.	Rail Road Crossing Symbol	1515-4	EA	1	\$ 700.-	\$ 700.-
13.	Pavement Marking, STOP	1515-4	EA	19	\$ 385.-	\$ 7,315.-
14.	Pavement Marking, Various Messages (non-STOP)	1515-4	EA	7	\$ 398.-	\$ 2,786.-
15.	Pavement Marking, 1' Wide Limit Lines (by LF of 12" Stripe)	1515-4	LF	245	\$ 11.85	\$ 2,903.25
16.	Pavement Marking, Yield (Sharks Teeth)	1515-4	SF	221	\$ 27.-	\$ 5,967.-
17.	Basic Cross Walk, 10' wide (by LF of 12" Stripe)	1515-4	LF	1,236	\$ 9.80	\$ 12,112.80
18.	Ladder Cross Walk, 10' wide White (by LF of 12" Stripe)	1515-4	LF	400	\$ 8.60	\$ 3,440.-
19.	Ladder Cross Walk, 10' wide Yellow (by LF of 12" Stripe)	1515-4	LF	8,059	\$ 8.65	\$ 69,710.35
20.	Shared Lane ("Sharrow") Bicycle Marking	1515-4	EA	301	\$ 345.-	\$ 103,845.-

PW 24-53

B 9

Section B
Bid Proposal Documents

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
21.	Bike Lane Marking (Bike and Arrow)	1515-4	EA	87	\$326.-	\$28,362.-
22.	Green Bicycle Striping	1515-4	SF	7,506	\$12.70	\$95,326.20
23.	Remove Existing Stripe or Pavement Marking	1515-4	SF	32,232	\$3.20	\$106,342.40 \$103,142.40
24.	Install New Sign on New Post	1530-4	EA	132	\$375.-	\$49,500.-
25.	Install New Sign on Existing Post, Street Lamp, etc.	1530-4	EA	26	\$200.-	\$5,200.-
26.	Remove Existing Sign(s) and Post	1530-4	EA	4	\$100.-	\$400.-
27.	Replace Post (Install New Post) for Sign Relocation	1530-4	EA	69	\$215.-	\$14,835.-
28.	Relocate Sign(s) onto New Post to New Location	1530-4	EA	6	\$55.-	\$330.-
29.	Remove Designated Sign Only (Other Signs to Remain)	1530-4	EA	5	\$65.-	\$325.-
30.	Paint Red Curb	1515-4	LF	1,379	\$3.50	\$4,826.50
CURB EXTENSION AT CESAR CHAVEZ & PINATA						
31.	Remove and dispose of AC and/or PCC Improvements	1906-4	CY	72	\$625.-	\$45,000.-

PW 24-53

B 10

Section B
Bid Proposal Documents

(**calculation correction – Item No. 23)

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
32.	Cold Mill AC Pavement	1110-3	SF	3,125	\$ 7.25	\$ 22,656.25
33.	Construct 4" PCC Sidewalk and ADA Ramps	1174-6	SF	1,865	\$ 20.-	\$ 37,300.-
34.	Construct 6" PCC Curb and Gutter	1174-6	LF	184	\$ 175.-	\$ 32,200.-
35.	Furnish and Install Detectable Warning Surface Tiles	1905-4	SF	172	\$ 50.-	\$ 8,600.-
36.	Variable Thickness AC Overlay	1150-9	TON	350	\$ 260.-	\$ 91,000.-
37.	Replace Landscaping	1601-3	SF	1,600	\$ 15.-	\$ 24,000.-
38.	Adjust MH to Grade	1185-4	EA	1	\$ 2,875.-	\$ 2,875.-
39.	Adjust Vault to Grade	1185-4	EA	1	\$ 3,500.-	\$ 3,500.-
40.	Adjust Pull Box to Grade	1185-4	EA	2	\$ 2,775.-	\$ 5,550.-
41.	Adjust WW to Grade	1185-4	EA	4	\$ 2,000.-	\$ 8,000.-
42.	Adjust Monument to Grade	1185-4	EA	1	\$ 1,945.-	\$ 1,945.-
TRAFFIC SIGNAL IMPROVEMENTS						
43.	Traffic Signal Modification (Gonzales Road and Entrada Drive)	1520-27	LS	1	\$ 51,000.-	\$ 51,000.-

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
44.	Traffic Signal Modification (Gonzales Road and Snow Avenue)	1520-27	LS	1	\$ 46,000.-	\$ 46,000.-
45.	Traffic Signal Modification (Cesar Chavez Drive and South Rose Avenue (EW Loops Only))	1520-27	LS	1	\$ 20,000.-	\$ 20,000.-
46.	Traffic Signal Modification (East Third Street and South A Street	1520-27	LS	1	\$ 97,000.-	\$ 97,000.-
47.	Traffic Signal Modification East Third Street and Garfield Avenue)	1520-27	LS	1	\$ 67,000.-	\$ 67,000.-
48.	Traffic Signal Modification (East Third Street and South Rose Avenue)	1520-27	LS	1	\$ 10,000.-	\$ 10,000.-
CLOYNE STREET IMPROVEMENTS						
49	Install Type IV Arrow Pavement Marking	1515-4	EA	3	\$ 246.-	\$ 738.-
50.	Install Detail 27B	1515-4	LF	175	\$ 2.-	\$ 350.-
51.	Install Detail 27C	1515-4	LF	155	\$ 1.30	\$ 201.50
52.	Install Detail 32	1515-4	LF	60	\$ 4.35	\$ 261.-

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
53.	Install Detail 39	1515-4	LF	175	\$ 2.45	\$ 428.75
54.	Install Detail 39A	1515-4	LF	65	\$ 2.20	\$ 143.-
55.	Pavement Marking, Various Messages (non-STOP)	1515-4	EA	1	\$ 467.-	\$ 467.-
56.	Pavement Marking - Yield (Sharks Teeth)	1515-4	SF	140	\$ 27.-	\$ 3,780.-
57.	Continental Crosswalk, 10' wide Yellow (by LF of 12" Stripe)	1515-4	LF	220	\$ 10.-	\$ 2,200.-
58.	Ladder Cross Walk, 10' wide Yellow (by LF of 12" Stripe)	1515-4	LF	2,000	\$ 8.50	\$ 17,000.-
59.	Shared Lane ("Sharrow") Bicycle Marking	1515-4	EA	94	\$ 346.-	\$ 32,524.-
60.	Bike Lane Marking (Bike and Arrow)	1515-4	EA	2	\$ 333.-	\$ 666.-
61.	Remove Existing Stripe or Pavement Marking	1515-4	SF	5,746	\$ 3.25	\$ 18,674.50
62.	Install New Sign on New Post	1530-4	EA	20	\$ 355.-	\$ 7,100.-
63.	Install Two New Signs on New Post	1530-4	EA	7	\$ 475.-	\$ 3,325.-
64.	Install New Sign on Existing Post, Street Lamp, etc.	1530-4	EA	1	\$ 200.-	\$ 200.-

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
65.	Install 4 New Signs on New Post	1530-4	EA	6	\$ 705.-	\$ 4,230.-
66.	Remove Rectangular Rapid Flashing Beacon	1520-20	EA	2	\$ 2,000.-	\$ 4,000.-
67.	Paint Red Curb	1515-4	LF	433	\$ 3.50	\$ 1,515.50
68.	Install 4' PCC Walk (Widening in Johnson Creek Park)	1174-6	SF	4,460	\$ 37.-	\$ 165,020.-
TRAFFIC SIGNAL IMPROVEMENTS						
69.	Traffic Signal Modification (Cloyne Street at Pleasant Valley Road)	1520-27	LS	1	\$ 9,800.-	\$ 9,800.-
70.	Rectangular Rapid Flashing Beacon System (Bard Road and Justin Way)	1520-27	LS	1	\$ 120,000.-	\$ 120,000.-
TOTAL BID PRICE:					\$ 1,648,690.25	

****\$1,645,490.25**

Note: Several items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.1. Regardless of total actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

(**calculation correction – Item No. 23)

TOTAL BID PRICE IN DIGITS: \$ 1,648,690.25 ****\$1,645,490.25**

TOTAL BID PRICE IN WORDS: ~~one million six hundred forty eight thousand six hundred ninety dollars & twenty-five cents~~

****One million, six hundred forty-five thousand, four hundred ninety dollars and 25 cents**

Bidder's Company Name: TORO ENTERPRISES, INC.

Signature: [Signature]

Title: PRESIDENT

Print: SEAN CASTILLO

Date: 12-10-24

(calculation correction – Item No. 23)**



EXHIBIT B**INS-G Insurance Requirements and Sample Acord Forms****INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS
(WITHOUT BUILDER'S RISK REQUIREMENT)**

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.

d. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-G. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A: VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-G or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODESUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY

LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY

LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS**CERTIFICATE HOLDER**

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 46250-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE-DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
 (Original signature required)

Telephone: () _____ Date Signed _____

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the City)		SUBMIT IN DUPLICATE					
PRODUCER		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)				
Telephone: _____ NAMED INSURED SAMPLE	POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits ☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____ APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS _____						
TYPE OF INSURANCE		OTHER PROVISIONS					
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made ☐ COMPREHENSIVE GENERAL LIABILITY ☐ Retroactive Date _____ ☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence		LIABILITY LIMITS IN THOUSANDS \$ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; padding: 5px;">EACH OCCURRENCE</th> <th style="width: 50%; padding: 5px;">AGGREGATE</th> </tr> </thead> <tbody> <tr> <td style="height: 100px; vertical-align: top; padding: 5px;"> COVERAGES ☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____ </td> <td style="vertical-align: top; padding: 5px;"></td> </tr> </tbody> </table>		EACH OCCURRENCE	AGGREGATE	COVERAGES ☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____	
EACH OCCURRENCE	AGGREGATE						
COVERAGES ☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____							
CLAIMS: Underwriter=s representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____							
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows: 1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2. CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insureds scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3. SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4. CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5. PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6. SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a) Insurance Services Office Commercial General Liability Coverage, A occurrence form CG0001; or b) If excess, affords coverage which is at least as broad as the primary insurance form CG0001. Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.							
ENDORSEMENT HOLDER CITY OF OXNARD % Evident ID, Inc. 8520 Allison Pointe Blvd. Ste 223 PMB 5210 Indianapolis, Indiana 46250-4299 US CANCELLATION SHOULD ANY OF THE ABOVE-DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (Original signature required) Telephone: () _____ Date Signed _____							

**AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the City)****SUBMIT IN DUPLICATE**

ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____

PRODUCER

POLICY INFORMATION:

Insurance Company: _____

Policy No.: _____

Policy Period: (from) _____ (to) _____

LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

Telephone: _____

NAMED INSURED

☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)**SAMPLE****APPLICABILITY.** This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS _____

TYPE OF INSURANCE☐ COMMERCIAL AUTO POLICY☐ BUSINESS AUTO POLICY☐ OTHER**OTHER PROVISIONS****LIMIT OF LIABILITY**

\$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter=s representative for claims pursuant to this insurance.

Name: _____

Address: _____

Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insureds scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - a) Insurance Services Office Automobile Liability Coverage, "Occurrence" form CA0001, code (any auto); or
 - b) If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 46250-4299 US

AUTHORIZED REPRESENTATIVE☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: (____) _____ Date Signed _____

EXHIBIT C

**CITY OF OXNARD
BICYCLE AND PEDESTRIAN FACILITIES NORTHEAST COMMUNITIES AND CLOYNE STREET
SPECIFICATION NO. PW 24-53**

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH BID)
Public Contract Code Sections 2202-2208**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete one of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): TORO ENTERPRISES, INC. Federal ID Number (or n/a): 77-0396663

By (Authorized Signature): _____

SEAN CASTILLO, PRESIDENT

Printed Name & Title of Person Signing:

12-10-24
Date Executed

Executed in the County of VENTURA in the State of CALIFORNIA

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

EXHIBIT D

SMALL / MINORITY / WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRM OUTREACH PLAN

DUE WITHIN THREE (3) WORKING DAYS FOLLOWING THE BID OPENING

Project Number: SPECIFICATION NO. PW 24-53, FEDERAL PROJECT NO. CML-5129(086)

Contractor: TORO ENTERPRISES, INC.

Submittal #: _____

In this section, the Contractor is to provide details regarding strategies and efforts made to solicit, engage and utilize small and minority businesses, women's business enterprises (S/M/WBE) and labor surplus area (LSA) firms to demonstrate responsiveness to 2 CFR § 200.321.

1. Identify the items of work made available to S/M/WBEs and LSAs. Provide a description of the work items, approximate dollar amount and the percentage of the total Contract value.

Description of Work Item	Contractor Normally Performs (Y/N)	Unbundled from Larger Scope (Y/N) If Yes, List Scope	Amount (\$)	Percentage of Contract
ELECTRICAL	N	Y	\$310,000.00	18%
COLD MILLING	Y	Y		
DEMOLITION	Y	Y		
SAWCUTTING	Y	Y		

CONCRETE Y

Y

2. Describe the outreach efforts to identify S/M/WBEs and LSAs on this Agreement, list agencies/associations/databases consulted and the date, method and result of the outreach efforts (examples include but are not limited to: Small Business Administration, the Minority Business Development Agency, the Department of Commerce, minority business associates, Small Business Development Centers, DGS).

Agency/Association Chamber/Database Name	Contact Name	Method of Outreach (fax, Email, Phone, etc.)	Date of Outreach	Response / Outcome
PLEASE SEE ATTACHED				

3. Describe the outreach efforts exerted to ensure that qualified S/M/WBEs and LSAs were solicited and had sufficient information about subcontracting opportunities on this Contract. Include the date and method of the outreach efforts.

S/M/WB E and LSA Firm Name	Contact Name / Title	Business Type (Small / Minority / Women)	Outreach Method (Fax, Email, Phone, etc.)	Initial Outreach Date	Follow-Up Date	Response / Interested in Bidding (Y/N)
PLEASE SEE	ATTACHED					

4. Detail methods utilized to determine whether S/M/WBEs and LSAs were qualified:
PLEASE SEE ATTACHED

5. What approach was taken to arrange subcontracting work in a way that would encourage the participation of S/M/WBEs and LSAs on this Agreement. Provide examples of how delivery schedules, when permissible, were established in a way that would encourage participation by S/M/WBEs and LSAs.
PLEASE SEE ATTACHED

6. Identify any contractual requirements, incentives, or other measures your team utilized or considered utilizing on this Agreement to promote S/M/WBE and LSA assistance. This may include assistance in meeting insurance limits, bonding requirements, obtaining certifications or licenses that are appropriate in facilitating the type of work the S/M/WBEs and LSAs would be performing.

PLEASE SEE ATTACHED

Note: USE ADDITIONAL SHEETS AS NEEDED TO DEMONSTRATE RESPONSIVENESS.

CALTRANS EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS**(NOTE: Bidders are required to submit within five (5) Calendar days following bid opening)**Cost Proposal Due Date 12/10/2024 PE/CEFederal-aid Project No(s). CML-5129(086) Bid Opening Date 12/10/2024 CON

The CITY OF OXNARD established a Disadvantaged Business Enterprise (DBE) goal of 12% for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) calendar days from cost proposal due date or bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicate that the proposer or bidder has met the DBE goal. This form protects the proposer's or bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Please attach additional sheets as needed:

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement
TRADE JOURNAL	11-27-2024 @ 03:47 PM PST
FOCUS JOURNAL	11-27-2024 @ 03:47 PM PST

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates
PLEASE SEE ATTACHED		

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to meet or exceed the DBE contract goal.

Items of Work	Proposer or Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
ELECTRICAL	N	43-48, 66, 69-70	\$310,000.00	18 %
COLD MILLING	Y			%
DEMOLITION	Y			%
SAWCUTTING	Y			%
CONCRETE	Y			

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

None - we did not receive pricing from any DBE firms

Names, addresses and phone numbers of firms selected for the work above:

TAFT ELECTRIC COMPANY - 1694 Eastman Ave, Ventura, CA 93003 - (805) 642-0121

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

PLEASE SEE ATTACHED

EXHIBIT E
FEDERAL GRANT CONTRACT ADDENDUM
CITY OF OXNARD FEDERAL AID PROJECT NO. CML-5129(086)

Notice: The contract or purchase order to which this addendum is attached is made using federal assistance provided to the City of Oxnard by the US Department of Treasury under the American Rescue Plan Act ("ARPA"), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021).

The following terms and conditions apply to you, the contractor or vendor, as a contractor of the City of Oxnard, according to the City's Award Terms and Conditions signed on May 11, 2021; by ARPA and its implementing regulations; and as established by the Treasury Department.

Certifications requiring signature from the Contractor follow at the end of this Document.

1. Equal Opportunity. Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Small and Minority Business, and Women's Business Enterprises (if applicable to this Contract, see SBE/MBE/WBE/LSA form attached below)

Contractor hereby agrees to comply with the following when applicable: The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), when applicable. Accordingly, the Contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified women's business enterprises and small and minority businesses on solicitation lists;
- b. Assuring that women's enterprises and small and minority businesses are solicited whenever they are potential sources;
- c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women's business enterprises;
- d. Where the requirement permits, establishing delivery schedules which will encourage participation by women's business enterprises and small and minority business;
- e. Using the services and assistance of the Small Business Administration, and the U.S. Office of Minority Business Development Agency of the Department of Commerce; and
- f. If any subcontracts are to be let, requiring the prime Contractor to take the affirmative steps in a through e above.

For the purposes of these requirements, a Minority Business Enterprise (MBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by members of the following groups: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Natives. A Women Business Enterprise (WBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by women.

2. Suspension and Debarment. (Applies to all purchases. See certification form attached below.)

(A) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

(B) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(C) This certification is a material representation of fact relied upon by the City of Oxnard. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(D) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended. (Applies to all purchases. See certification form attached below.) Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

4. Access to Records. (applies to all purchases.)

(A) The Contractor agrees to provide the City of Oxnard, the U.S. Department of Treasury, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means or to copy excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests.

(B) The Contractor agrees to provide the Treasury Department or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(C) No language in this contract is intended to prohibit audits or internal reviews by the Treasury Department or the Comptroller General of the United States.

5. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.

6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 through 3708) (Applies only to purchases over \$100,000, when laborers or mechanics are used.) Where applicable, all contracts in excess of \$100,000 that involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. 3702 and 3704 of the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 3702 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Clean Air Act & Federal Water Pollution Control Act (Applies to purchases of more than \$150,000.)

(A) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(B) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(C) The Contractor agrees to report each violation of the Clean Air Act and the Water Pollution Control Act to the City of Oxnard and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(D) Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

8. Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)

Contractor is prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by **Huawei Technologies Company** or **ZTE Corporation** (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

9. Buy USA - Domestic Preference for certain procurements using federal funds.

Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

10. Procurement of Recovered Materials: (Applies only if the work involves the use of materials)

(A) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: i. Competitively within a timeframe providing for compliance with the contract performance schedule; ii. Meeting contract performance requirements; or iii. At a reasonable price.

(B) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

(C) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

12. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

13. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

14. Davis-Bacon Act. (applies to projects over \$2000)

(A) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction) as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

(B) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

(C) Additionally, contractors are required to pay wages not less than once a week.

15. Compliance with the Copeland "Anti-Kickback" Act. (applies when Davis-Bacon Act is required)

(A) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(B) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(C) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

16. Required Forms. Contractor will be expected to obtain and submit the forms listed below which are provided by Caltrans and can be downloaded at this link.

<https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms:>

Monthly during construction:

Caltrans Exhibit 9-F DBE Running Tally of Payments (Contractor required to submit monthly during construction per instructions on Exhibit).

Caltrans Exhibit 9-J DBE Commercially Useful Function (Contractor required to submit monthly during construction)

Caltrans Exhibit 16-Z1 Monthly DBE Trucking Verification (Contractor required to submit monthly during construction)

Upon completion of construction:

Caltrans Exhibit 17-F Final Report – Utilization of DBE and 1st Tier Subcontractors (Contractor required to submit upon completion of construction)

Caltrans Exhibit 17-O DBE Certification Status Change (Contractor required to submit upon completion of construction)

CALTRANS EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION FORM COMPLETED BY CONTRACTOR

CALTRANS EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder TORO ENTERPRISES, INC.
proposed subcontractor TAFT ELECTRIC COMPANY, hereby certifies
that he has X has not , participated in a previous contract or subcontract subject to the equal
opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where
required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract
Compliance, a Federal Government contracting or administering agency, or the former President's
Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the
Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed
subcontractors only in connection with contracts and subcontracts which are subject to the equal
opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause
are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are
exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their
implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or
subcontract subject to the Executive Orders and have not filed the required reports should note that 41
CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a
report covering the delinquent period or such other period specified by the Federal Highway
Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

BYRD ANTI-LOBBYING CERTIFICATION

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

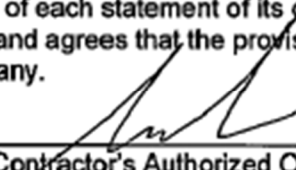
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, TORO ENTERPRISES, INC. certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.


Signature of Contractor's Authorized Official

12-10-24

SEAN CASTILLO, PRESIDENT
Printed Name and Title of Contractor's Authorized Official



CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

(Lower Tier refers to the agency or Contractor receiving Federal funds, as well as any subcontractors that the agency or Contractor enters into contract with using those funds)

As required by Executive Order 12549, Debarment and Suspension, and 31 CFR Part 19, and 2 CFR part 180, City may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any Contractor that is debarred, suspended, or ineligible under 31 CFR Part 19.

Instruction for Certification

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph 2 of this certification, and
4. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
5. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

TORO ENTERPRISES, INC.

Bidder's Company Name

SEAN CASTILLO, PRESIDENT

Printed Name and Title of Bidder's Authorized Official

Signature

12-10-24

Date

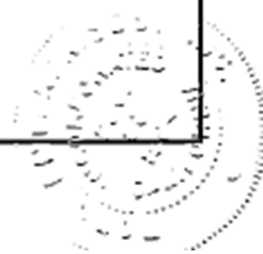


EXHIBIT F

GRANT MASTER AGREEMENT

Federal Aid Project Agreement No. 07-5129F15

**Between City of Oxnard (“Administering Agency”) and
State of California, Department of Transportation/Caltrans, (“State”)
and Federal Highway Administration (“FWHA”)**

**BICYCLE AND PEDESTRIAN FACILITIES NORTHEAST COMMUNITIES
AND CLOYNE STREET**

SPECIFICATION NO. PW 24-53

MASTER AGREEMENT
ADMINISTERING AGENCY-STATE AGREEMENT FOR
FEDERAL-AID PROJECTS

07 City of Oxnard

District Administering Agency

Agreement No. 07-5129F15

This AGREEMENT, is entered into effective this 2 day of DECEMBER 20¹⁶, by and between City of Oxnard, hereinafter referred to as "ADMINISTERING AGENCY," and the State of California, acting by and through its Department of Transportation (Caltrans), hereinafter referred to as "STATE", and together referred to as "PARTIES" or individually as a "PARTY."

RECITALS:

1. WHEREAS, the Congress of the United States has enacted the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and subsequent Transportation Authorization Bills to fund transportation programs; and
2. WHEREAS, the Legislature of the State of California has enacted legislation by which certain federal-aid funds may be made available for use on local transportation related projects of public entities qualified to act as recipients of these federal-aid funds in accordance with the intent of federal law; and
3. WHEREAS, before federal funds will be made available for a specific program project, ADMINISTERING AGENCY and STATE are required to enter into an agreement to establish terms and conditions applicable to the ADMINISTERING AGENCY when receiving federal funds for a designated PROJECT facility and to the subsequent operation and maintenance of that completed facility.

NOW, THEREFORE, the PARTIES agree as follows:



ARTICLE I - PROJECT ADMINISTRATION

1. This AGREEMENT shall have no force or effect with respect to any program project unless and until a project-specific "Authorization/Agreement Summary", herein referred to as "E-76" document, is approved by STATE and the Federal Highway Administration (FHWA).
2. The term "PROJECT", as used herein, means that authorized transportation related project and related activities financed in part with federal-aid funds as more fully-described in an "Authorization/ Agreement Summary" or "Amendment/Modification Summary", herein referred to as "E-76" or "E-76 (AMOD)" document authorized by STATE and the Federal Highway Administration (FHWA).
3. The E-76/E-76 (AMOD) shall designate the party responsible for implementing PROJECT, type of work and location of PROJECT.
4. The PROGRAM SUPPLEMENT sets out special covenants as a condition for the ADMINISTERING AGENCY to receive federal-aid funds from/through STATE for designated PROJECT. The PROGRAM SUPPLEMENT shall also show these federal funds that have been initially encumbered for PROJECT along with the matching funds to be provided by ADMINISTERING AGENCY and/or others. Execution of PROGRAM SUPPLEMENT by the PARTIES shall cause ADMINISTERING AGENCY to adopt all of the terms of this AGREEMENT as though fully set forth therein in the PROGRAM SUPPLEMENT. Unless otherwise expressly delegated in a resolution by the governing body of ADMINISTERING AGENCY, and with written concurrence by STATE, the PROGRAM SUPPLEMENT shall be approved and managed by the governing body of ADMINISTERING AGENCY.
5. ADMINISTERING AGENCY agrees to execute and return each project-specific PROGRAM SUPPLEMENT within ninety (90) days of receipt. The PARTIES agree that STATE may suspend future authorizations/obligations and invoice payments for any on-going or future federal-aid project performed by ADMINISTERING AGENCY if any project-specific PROGRAM SUPPLEMENT is not returned within that ninety (90) day period unless otherwise agreed by STATE in writing.
6. ADMINISTERING AGENCY further agrees, as a condition to the release and payment of federal funds encumbered for the PROJECT described in each PROGRAM SUPPLEMENT, to comply with the terms and conditions of this AGREEMENT and all of the agreed-upon Special Covenants or Remarks incorporated within the PROGRAM SUPPLEMENT, and Cooperative/Contribution Agreement where appropriate, defining and identifying the nature of the specific PROJECT.
7. Federal, state and matching funds will not participate in PROJECT work performed in advance of the approval of the E-76 or E-76 (AMOD), unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT. ADMINISTERING AGENCY agrees that it will only proceed with the work authorized for that specific phase(s) on the project-specific E-76 or E-76 (AMOD). ADMINISTERING AGENCY further agrees to not proceed with future phases of PROJECT prior to receiving an E-76 (AMOD) from STATE for that phase(s) unless no further federal funds are needed or for those future phase(s).

8. That PROJECT or portions thereof, must be included in a federally approved Federal Statewide Transportation Improvement Program (FSTIP) prior to ADMINISTERING AGENCY submitting the "Request for Authorization".

9. ADMINISTERING AGENCY shall conform to all state statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

10. If PROJECT is not on STATE-owned right of way, PROJECT shall be constructed in accordance with LOCAL ASSISTANCE PROCEDURES that describes minimum statewide design standards for local agency streets and roads. LOCAL ASSISTANCE PROCEDURES for projects off the National Highway System (NHS) allow STATE to accept either the STATE's minimum statewide design standards or the approved geometric design standards of ADMINISTERING AGENCY. Additionally, for projects off the NHS, STATE will accept ADMINISTERING AGENCY-approved standard specifications, standard plans, materials sampling and testing quality assurance programs that meet the conditions described in the then current LOCAL ASSISTANCE PROCEDURES.

11. If PROJECT involves work within or partially within STATE-owned right-of-way, that PROJECT shall also be subject to compliance with the policies, procedures and standards of the STATE Project Development Procedures Manual and Highway Design Manual and, where appropriate, an executed Cooperative Agreement between STATE and ADMINISTERING AGENCY that outlines the PROJECT responsibilities and respective obligations of the PARTIES. ADMINISTERING AGENCY and its contractors shall each obtain an encroachment permit through STATE prior to commencing any work within STATE rights of way or work which affects STATE facilities.

12. When PROJECT is not on the State Highway System but includes work to be performed by a railroad, the contract for such work shall be prepared by ADMINISTERING AGENCY or by STATE, as the PARTIES may hereafter agree. In either event, ADMINISTERING AGENCY shall enter into an agreement with the railroad providing for future maintenance of protective devices or other facilities installed under the contract.

13. If PROJECT is using STATE funds, the Department of General Services, Division of the State Architect, or its designee, shall review the contract PS&E for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability. ADMINISTERING AGENCY shall not award a PROJECT construction contract for these types of improvements until the State Architect has issued written approval stating that the PROJECT plans and specifications comply with the provisions of sections 4450 and 4454 of the California Government Code, if applicable. Further requirements and guidance are provided in Title 24 of the California Code of Regulations.

14. ADMINISTERING AGENCY will advertise, award and administer PROJECT in accordance with the current LOCAL ASSISTANCE PROCEDURES unless otherwise stated in the executed project-specific PROGRAM SUPPLEMENT.

15. ADMINISTERING AGENCY shall provide or arrange for adequate supervision and inspection of each PROJECT. While consultants may perform supervision and inspection work for PROJECT with a fully qualified and licensed engineer, ADMINISTERING AGENCY shall provide a full-time employee to be in responsible charge of each PROJECT who is not a consultant.

16. ADMINISTERING AGENCY shall submit PROJECT-specific contract award documents to STATE's District Local Assistance Engineer within sixty (60) days after contract award. A copy of the award documents shall also be included with the submittal of the first invoice for a construction contract by ADMINISTERING AGENCY.

17. ADMINISTERING AGENCY shall submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure by ADMINISTERING AGENCY to submit a "Report of Expenditures" within one hundred eighty (180) days of project completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current LOCAL ASSISTANCE PROCEDURES.

18. ADMINISTERING AGENCY shall comply with: (i) section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in federally assisted programs; (ii) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability irrespective of funding; and (iii) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

19. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. ADMINISTERING AGENCY agrees to comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM (Exhibit A attached hereto) and the NONDISCRIMINATION ASSURANCES (Exhibit B attached hereto). ADMINISTERING AGENCY further agrees that any agreement entered into by ADMINISTERING AGENCY with a third party for performance of PROJECT-related work shall incorporate Exhibits A and B (with third party's name replacing ADMINISTERING AGENCY) as essential parts of such agreement to be enforced by that third party as verified by ADMINISTERING AGENCY.

ARTICLE II - RIGHTS OF WAY

1. No contract for the construction of a federal-aid PROJECT shall be awarded until all necessary rights of way have been secured. Prior to the advertising for construction of PROJECT, ADMINISTERING AGENCY shall certify and, upon request, shall furnish STATE with evidence that all necessary rights of way are available for construction purposes or will be available by the time of award of the construction contract.
2. ADMINISTERING AGENCY agrees to indemnify and hold STATE harmless from any liability that may result in the event the right of way for a PROJECT, including, but not limited to, being clear as certified or if said right of way is found to contain hazardous materials requiring treatment or removal to remediate in accordance with Federal and State laws. The furnishing of right of way as provided for herein includes, in addition to all real property required for the PROJECT, title free and clear of obstructions and encumbrances affecting PROJECT and the payment, as required by applicable law, of relocation costs and damages to remainder real property not actually taken but injuriously affected by PROJECT. ADMINISTERING AGENCY shall pay, from its own non-matching funds, any costs which arise out of delays to the construction of PROJECT because utility facilities have not been timely removed or relocated, or because rights of way were not available to ADMINISTERING AGENCY for the orderly prosecution of PROJECT work.
3. Subject to STATE approval and such supervision as is required by LOCAL ASSISTANCE PROCEDURES over ADMINISTERING AGENCY's right of way acquisition procedures, ADMINISTERING AGENCY may claim reimbursement from federal funds for expenditures incurred in purchasing only the necessary rights of way needed for the PROJECT after crediting PROJECT with the fair market value of any excess property retained and not disposed of by ADMINISTERING AGENCY.
4. When real property rights are to be acquired by ADMINISTERING AGENCY for a PROJECT, said ADMINISTERING AGENCY must carry out that acquisition in compliance with all applicable State and Federal laws and regulations, in accordance with State procedures as published in State's current LOCAL ASSISTANCE PROCEDURES and STATE's Right-of-Way Manual, subject to STATE oversight to ensure that the completed work is acceptable under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
5. Whether or not federal-aid is to be requested for right of way, should ADMINISTERING AGENCY, in acquiring right of way for PROJECT, displace an individual, family, business, farm operation, or non-profit organization, relocation payments and services will be provided as set forth in 49 CFR, Part 24. The public will be adequately informed of the relocation payments and services which will be available, and, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from his/her dwelling or to move his/her business or farm operation without at least ninety (90) days written notice from ADMINISTERING AGENCY. ADMINISTERING AGENCY will provide STATE with specific assurances, on each portion of the PROJECT, that no person will be displaced until comparable decent, safe and sanitary replacement housing is available within a reasonable period of time prior to displacement, and that ADMINISTERING AGENCY's relocation program is realistic and adequate to provide orderly, timely and efficient relocation of PROJECT-displaced persons as provided in 49 CFR, Part 24.

6. ADMINISTERING AGENCY shall, along with recording the deed or instrument evidencing title in the name of the ADMINISTERING AGENCY or their assignee, also record an Agreement Declaring Restrictive Covenants (ADRC) as a separate document incorporating the assurances included within Exhibits A and B and Appendices A, B, C and D of this AGREEMENT, as appropriate.

ARTICLE III - MAINTENANCE AND MANAGEMENT

1. ADMINISTERING AGENCY will maintain and operate the property acquired, developed, constructed, rehabilitated, or restored by PROJECT for its intended public use until such time as the parties might amend this AGREEMENT to otherwise provide. With the approval of STATE, ADMINISTERING AGENCY or its successors in interest in the PROJECT property may transfer this obligation and responsibility to maintain and operate PROJECT property for that intended public purpose to another public entity.

2. Upon ADMINISTERING AGENCY's acceptance of the completed federal-aid construction contract or upon contractor being relieved of the responsibility for maintaining and protecting PROJECT, ADMINISTERING AGENCY will be responsible for the maintenance, ownership, liability, and the expense thereof, for PROJECT in a manner satisfactory to the authorized representatives of STATE and FHWA and if PROJECT falls within the jurisdictional limits of another Agency or Agencies, it is the duty of ADMINISTERING AGENCY to facilitate a separate maintenance agreement(s) between itself and the other jurisdictional Agency or Agencies providing for the operation, maintenance, ownership and liability of PROJECT. Until those agreements are executed, ADMINISTERING AGENCY will be responsible for all PROJECT operations, maintenance, ownership and liability in a manner satisfactory to the authorized representatives of STATE and FHWA. If, within ninety (90) days after receipt of notice from STATE that a PROJECT, or any portion thereof, is not being properly operated and maintained and ADMINISTERING AGENCY has not satisfactorily remedied the conditions complained of, the approval of future federal-aid projects of ADMINISTERING AGENCY will be withheld until the PROJECT shall have been put in a condition of operation and maintenance satisfactory to STATE and FHWA. The provisions of this section shall not apply to a PROJECT that has been vacated through due process of law with STATE's concurrence.

3. PROJECT and its facilities shall be maintained by an adequate and well-trained staff of engineers and/or such other professionals and technicians as PROJECT reasonably requires. Said operations and maintenance staff may be employees of ADMINISTERING AGENCY, another unit of government, or a contractor under agreement with ADMINISTERING AGENCY. All maintenance will be performed at regular intervals or as required for efficient operation of the complete PROJECT improvements.

ARTICLE IV - FISCAL PROVISIONS

1. All contractual obligations of STATE are subject to the appropriation of resources by the Legislature and the allocation of resources by the California Transportation Commission (CTC).
2. STATE'S financial commitment of federal funds will occur only upon the execution of this AGREEMENT, the authorization of the project-specific E-76 or E-76 (AMOD), the execution of each project-specific PROGRAM SUPPLEMENT, and STATE's approved finance letter.
3. ADMINISTERING AGENCY may submit signed invoices in arrears for reimbursement of participating PROJECT costs on a regular basis once the project-specific PROGRAM SUPPLEMENT has been executed by STATE.
4. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six (6) months commencing after the funds are encumbered on either the project-specific PROGRAM SUPPLEMENT or through a project-specific finance letter approved by STATE. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six (6) month period.
5. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
6. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
7. Payments to ADMINISTERING AGENCY can only be released by STATE as reimbursement of actual allowable PROJECT costs already incurred and paid for by ADMINISTERING AGENCY.
8. Indirect Cost Allocation Plans/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
9. Once PROJECT has been awarded, STATE reserves the right to de-obligate any excess federal funds from the construction phase of PROJECT if the contract award amount is less than the obligated amount, as shown on the PROJECT E-76 or E-76 (AMOD).
10. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

11. The estimated total cost of PROJECT, the amount of federal funds obligated, and the required matching funds may be adjusted by mutual consent of the PARTIES hereto with a finance letter, a detailed estimate, if required, and approved E-76 (AMOD). Federal-aid funding may be increased to cover PROJECT cost increases only if such funds are available and FHWA concurs with that increase.

12. When additional federal-aid funds are not available, ADMINISTERING AGENCY agrees that the payment of federal funds will be limited to the amounts authorized on the PROJECT specific E-76 / E-76 (AMOD) and agrees that any increases in PROJECT costs must be defrayed with ADMINISTERING AGENCY's own funds.

13. ADMINISTERING AGENCY shall use its own non-federal funds to finance the local share of eligible costs and all expenditures or contract items ruled ineligible for financing with federal funds. STATE shall make the determination of ADMINISTERING AGENCY's cost eligibility for federal fund financing of PROJECT costs.

14. ADMINISTERING AGENCY will reimburse STATE for STATE's share of costs for work performed by STATE at the request of ADMINISTERING AGENCY. STATE's costs shall include overhead assessments in accordance with section 8755.1 of the State Administrative Manual.

15. Federal and state funds allocated from the State Transportation Improvement Program (STIP) are subject to the timely use of funds provisions enacted by Senate Bill 45, approved in 1997, and subsequent STIP Guidelines and State procedures approved by the CTC and STATE.

16. Federal funds encumbered for PROJECT are available for liquidation for a period of six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. State funds encumbered for PROJECT are available for liquidation only for six (6) years from the beginning of the State fiscal year the funds were appropriated in the State Budget. Federal or state funds not liquidated within these periods will be reverted unless a Cooperative Work Agreement (CWA) is submitted by ADMINISTERING AGENCY and approved by the California Department of Finance (per Government Code section 16304). The exact date of fund reversion will be reflected in the STATE signed finance letter for PROJECT.

17. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

18. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

19. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

20. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

21. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

22. Should ADMINISTERING AGENCY fail to refund any moneys due upon written demand by STATE as provided hereunder or should ADMINISTERING AGENCY breach this AGREEMENT by failing to complete PROJECT without adequate justification and approval by STATE, then, within thirty 30 days of demand, or within such other period as may be agreed to in writing between the PARTIES, STATE, acting through the State Controller, the State Treasurer, or any other public entity or agency, may withhold or demand a transfer of an amount equal to the amount paid by or owed to STATE from future apportionments, or any other funds due ADMINISTERING AGENCY from the Highway Users Tax Fund or any other sources of funds, and/or may withhold approval of future ADMINISTERING AGENCY federal-aid projects.

23. Should ADMINISTERING AGENCY be declared to be in breach of this AGREEMENT or otherwise in default thereof by STATE, and if ADMINISTERING AGENCY is constituted as a joint powers authority, special district, or any other public entity not directly receiving funds through the State Controller, STATE is authorized to obtain reimbursement from whatever sources of funding are available, including the withholding or transfer of funds, pursuant to Article IV - 22, from those constituent entities comprising a joint powers authority or by bringing of an action against ADMINISTERING AGENCY or its constituent member entities, to recover all funds provided by STATE hereunder.

24. ADMINISTERING AGENCY acknowledges that the signatory party represents the ADMINISTERING AGENCY and further warrants that there is nothing within a Joint Powers Agreement, by which ADMINISTERING AGENCY was created, if any exists, that would restrict or otherwise limit STATE's ability to recover State funds improperly spent by ADMINISTERING AGENCY in contravention of the terms of this AGREEMENT.

ARTICLE V
AUDITS, THIRD PARTY CONTRACTING, RECORDS RETENTION AND REPORTS

1. STATE reserves the right to conduct technical and financial audits of PROJECT work and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by paragraph three (3) of ARTICLE V.
2. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices sent to or paid by STATE.
3. ADMINISTERING AGENCY, ADMINISTERING AGENCY's contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.
4. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year. The Federal Funds received under a PROGRAM SUPPLEMENT are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205.
5. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.
6. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contract over \$10,000, or other contracts over \$25,000 (excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)) on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

7. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions 5, 6, 17, 19 and 20 of ARTICLE IV, FISCAL PROVISIONS, and provisions 1, 2, and 3 of this ARTICLE V, AUDITS, THIRD-PARTY CONTRACTING RECORDS RETENTION AND REPORTS.

8. To be eligible for local match credit, ADMINISTERING AGENCY must ensure that local match funds used for a PROJECT meet the fiscal provisions requirements outlined in ARTICLE IV in the same manner as required of all other PROJECT expenditures.

9. In addition to the above, the pre-award requirements of third-party contractor/consultants with ADMINISTERING AGENCY should be consistent with the LOCAL ASSISTANCE PROCEDURES.

ARTICLE VI - FEDERAL LOBBYING ACTIVITIES CERTIFICATION

1. By execution of this AGREEMENT, ADMINISTERING AGENCY certifies, to the best of the signatory officer's knowledge and belief, that:

A. No federal or state appropriated funds have been paid or will be paid, by or on behalf of ADMINISTERING AGENCY, to any person for influencing or attempting to influence an officer or employee of any STATE or federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any STATE or federal contract, including this AGREEMENT, the making of any STATE or federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any STATE or federal contract, grant, loan, or cooperative contract.

B. If any funds other than federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this AGREEMENT, grant, local, or cooperative contract, ADMINISTERING AGENCY shall complete and submit Standard Form-LLL, "Disclosure Form to Rep Lobbying," in accordance with the form instructions.

C. This certification is a material representation of fact upon which reliance was placed when this AGREEMENT and each PROGRAM SUPPLEMENT was or will be made or entered into. Submission of this certification is a prerequisite for making or entering into this AGREEMENT imposed by Section 1352, Title 31, United States Code. Any party who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. ADMINISTERING AGENCY also agrees by signing this AGREEMENT that the language of this certification will be included in all lower tier sub-agreements which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

ARTICLE VII - MISCELLANEOUS PROVISIONS

1. ADMINISTERING AGENCY agrees to use all state funds reimbursed hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution and the relevant Federal Regulations.
2. This AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or adopted by the CTC that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
3. ADMINISTERING AGENCY and the officers and employees of ADMINISTERING AGENCY, when engaged in the performance of this AGREEMENT, shall act in an independent capacity and not as officers, employees or agents of STATE or the federal government.
4. Each project-specific E-76 or E-76 (AMOD), PROGRAM SUPPLEMENT and Finance Letter shall separately establish the terms and funding limits for each described PROJECT funded under the AGREEMENT. No federal or state funds are obligated against this AGREEMENT.
5. ADMINISTERING AGENCY certifies that neither ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this AGREEMENT. ADMINISTERING AGENCY agrees that it will notify STATE immediately in the event a suspension or a debarment occurs after the execution of this AGREEMENT.
6. ADMINISTERING AGENCY warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ADMINISTERING AGENCY for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this AGREEMENT without liability, pay only for the value of the work actually performed, or in STATE's discretion, to deduct from the price of consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
7. In accordance with Public Contract Code section 10296, ADMINISTERING AGENCY hereby certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against ADMINISTERING AGENCY within the immediate preceding two (2) year period because of ADMINISTERING AGENCY's failure to comply with an order of a federal court that orders ADMINISTERING AGENCY to comply with an order of the National Labor Relations Board.
8. ADMINISTERING AGENCY shall disclose any financial, business, or other relationship with STATE, FHWA or Federal Transit Administration (FTA) that may have an impact upon the outcome of this AGREEMENT. ADMINISTERING AGENCY shall also list current contractors who may have a financial interest in the outcome of this AGREEMENT.
9. ADMINISTERING AGENCY hereby certifies that it does not have nor shall it acquire any financial or business interest that would conflict with the performance of PROJECT under this AGREEMENT.

10. ADMINISTERING AGENCY warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE employee. For breach or violation of this warranty, STATE shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the work actually performed, or to deduct from the PROGRAM SUPPLEMENT price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Any dispute concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by the STATE's Contract Officer who may consider any written or verbal evidence submitted by ADMINISTERING AGENCY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on the PARTIES on all questions of fact considered and determined by the Contract Officer.

12. Neither the pending of a dispute nor its consideration by the Contract Officer will excuse ADMINISTERING AGENCY from full and timely performance in accordance with the terms of this AGREEMENT.

13. Neither ADMINISTERING AGENCY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that STATE shall fully defend, indemnify and save harmless the ADMINISTERING AGENCY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this AGREEMENT.

14. Neither STATE nor any officer or employee thereof shall be responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under, or in connection with, any work, authority or jurisdiction arising under this AGREEMENT. It is understood and agreed that ADMINISTERING AGENCY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by ADMINISTERING AGENCY under this AGREEMENT.

15. STATE reserves the right to terminate funding for any PROJECT upon written notice to ADMINISTERING AGENCY in the event that ADMINISTERING AGENCY fails to proceed with PROJECT work in accordance with the project-specific PROGRAM SUPPLEMENT, the bonding requirements if applicable, or otherwise violates the conditions of this AGREEMENT and/or PROGRAM SUPPLEMENT, or the funding allocation such that substantial performance is significantly endangered.

16. No termination shall become effective if, within thirty (30) days after receipt of a Notice of Termination, ADMINISTERING AGENCY either cures the default involved or, if not reasonably susceptible of cure within said thirty (30) day period, ADMINISTERING AGENCY proceeds thereafter to complete the cure in a manner and time line acceptable to STATE. Any such termination shall be accomplished by delivery to ADMINISTERING AGENCY of a Notice of Termination, which notice shall become effective not less than thirty (30) days after receipt, specifying the reason for the termination, the extent to which funding of work under this AGREEMENT is terminated and the date upon which such termination becomes effective, if beyond thirty (30) days after receipt. During the period before the effective termination date, ADMINISTERING AGENCY and STATE shall meet to attempt to resolve any dispute. In the event of such termination, STATE may proceed with the PROJECT work in a manner deemed proper by STATE. If STATE terminates funding for PROJECT with ADMINISTERING AGENCY, STATE shall pay ADMINISTERING AGENCY the sum due ADMINISTERING AGENCY under the PROGRAM SUPPLEMENT and/or STATE approved finance letter prior to termination, provided, however, ADMINISTERING AGENCY is not in default of the terms and conditions of this AGREEMENT or the project-specific PROGRAM SUPPLEMENT and that the cost of PROJECT completion to STATE shall first be deducted from any sum due ADMINISTERING AGENCY.

17. In case of inconsistency or conflicts with the terms of this AGREEMENT and that of a project-specific PROGRAM SUPPLEMENT, the terms stated in that PROGRAM SUPPLEMENT shall prevail over those in this AGREEMENT.

18. Without the written consent of STATE, this AGREEMENT is not assignable by ADMINISTERING AGENCY either in whole or in part.

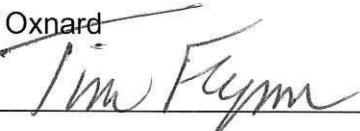
19. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES, and no oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT by their duly authorized officers.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By 
ROBERT NGUYEN

City of Oxnard

By 
Mayor, City of Oxnard

 Chief, Office of Project Implementation
Division of Local Assistance

City of Oxnard
Representative Name & Title
(Authorized Governing Body Representative)

Date 12/2/16

Date November 15, 2016

EXHIBIT A

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, ADMINISTERING AGENCY will not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ADMINISTERING AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. ADMINISTERING AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the ADMINISTERING AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. ADMINISTERING AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. ADMINISTERING AGENCY will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which ADMINISTERING AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that ADMINISTERING AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by ADMINISTERING AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to ADMINISTERING AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure ADMINISTERING AGENCY's breach of this Agreement.

EXHIBIT B

NONDISCRIMINATION ASSURANCES

ADMINISTERING AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which ADMINISTERING AGENCY receives federal financial assistance from the Federal Department of Transportation. ADMINISTERING AGENCY HEREBY GIVES ASSURANCE THAT ADMINISTERING AGENCY will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, ADMINISTERING AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That ADMINISTERING AGENCY agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.

2. That ADMINISTERING AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements:

ADMINISTERING AGENCY hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That ADMINISTERING AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.

4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where ADMINISTERING AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where ADMINISTERING AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That ADMINISTERING AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the ADMINISTERING AGENCY with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates ADMINISTERING AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates ADMINISTERING AGENCY or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which ADMINISTERING AGENCY retains ownership or possession of the property.

9. That ADMINISTERING AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that ADMINISTERING AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That ADMINISTERING AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. ADMINISTERING AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. ADMINISTERING AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of STATE assisted contracts. ADMINISTERING AGENCY'S DBE Implementation Agreement is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved DBE Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to ADMINISTERING AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on ADMINISTERING AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO EXHIBIT B

During the performance of this Agreement, ADMINISTERING AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as ADMINISTERING AGENCY) agrees as follows:

(1) Compliance with Regulations: ADMINISTERING AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: ADMINISTERING AGENCY, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. ADMINISTERING AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by ADMINISTERING AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by ADMINISTERING AGENCY of the ADMINISTERING AGENCY's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: ADMINISTERING AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to ADMINISTERING AGENCY's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of ADMINISTERING AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, ADMINISTERING AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts ADMINISTERING AGENCY has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of ADMINISTERING AGENCY's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to ADMINISTERING AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: ADMINISTERING AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. ADMINISTERING AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event ADMINISTERING AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, ADMINISTERING AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, ADMINISTERING AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that ADMINISTERING AGENCY will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the ADMINISTERING AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto ADMINISTERING AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on ADMINISTERING AGENCY, its successors and assigns.

ADMINISTERING AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that ADMINISTERING AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO EXHIBIT B

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7(a) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO EXHIBIT B

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the ADMINISTERING AGENCY, pursuant to the provisions of Assurance 7 (b) of Exhibit B.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, ADMINISTERING AGENCY shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of ADMINISTERING AGENCY, and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO. 14,972

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF OXNARD AUTHORIZING THE
MAYOR TO EXECUTE ALL SUPPLEMENTAL
AGREEMENTS AND RELATED DOCUMENTS
REQUIRED UNDER ADMINISTERING
AGENCY-STATE MASTER AGREEMENT FOR
FEDERAL AID PROJECTS AGREEMENT NO.
07-5129F15 WITHOUT FURTHER COUNCIL
AUTHORIZATION

WHEREAS, the City of Oxnard utilizes and relies on grants and other funding from the California Department of Transportation (Caltrans), including federal aid transportation funds made available through the State of California; and

WHEREAS, the City wishes to continue obtaining such grants and other funding from Caltrans; and

WHEREAS, Caltrans has required the City to enter into Administering Agency-State Master Agreement for Federal Aid Projects Agreement No. 07-5129F15 (Master Agreement) in order to obtain such Caltrans grants and funding in the future; and

WHEREAS, the City Council has approved the Master Agreement and authorized the Mayor to execute the Master Agreement; and

WHEREAS, in similar agreements with Caltrans in the past, the City Council has authorized the Mayor or his or her designee to execute all project-specific supplemental agreements and related documents with Caltrans without further City Council authorization; and

WHEREAS, the City now wishes to authorize the Mayor or his or her designee to execute all future supplemental agreements and related documents that fall under this Master Agreement without further City Council authorization.

NOW, THEREFORE, the City Council of the City of Oxnard hereby resolves, determines and orders the following:

1. The City Council hereby determines that all recitals listed above are true and correct and hereby incorporates those recitals into this resolution.
2. The City Council hereby authorizes the Mayor or his or her designee to execute all supplemental agreements and related documents under the Master Agreement without further City Council authorization.

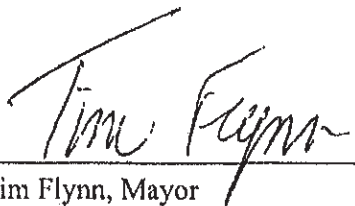
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oxnard on November 15, 2016, by the following vote:

AYES: Councilmembers Flynn, Ramirez, MacDonald, Padilla and Perello.

NOES: None.

ABSTAIN: None.

ABSENT: None.


Tim Flynn, Mayor

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Stephen M. Fischer, City Attorney

PROGRAM SUPPLEMENT NO. N068 Rev. 1
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 07-5129R

Adv. Project ID:
0715000046

Date: July 10, 2023
Location: 07-VEN-0-OXN
Project Number: CML-5129(086)
E.A. Number:
Locode: 5129

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 12/19/2007 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No.13,539 approved by the Administering Agency on July 22, 2008 (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION: IN THE NORTEAST COMMUNITY OF CITY OF OXNARD, NORTHEAST OF THE OXNARD TRANSIT CENTER.

TYPE OF WORK: INSTALL 1.9 MILES OF CLASS II BIKE LANES, 6.3 MILES OF CLASS III BIKE LANES & IMPROVEMENTS TO 3.69 M **LENGTH:** 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds		
	Y400		LOCAL		OTHER
	M400				
\$1,052,219.21		\$866,708.00			
		\$58,536.00	\$119,875.21		\$7,100.00

CITY OF OXNARD

By

Title City Manager

Date

Attest

STATE OF CALIFORNIA

Department of Transportation

By

FOR Chief, Office of Project Implementation
Division of Local Assistance

Date

07/18/2023

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer

Mekbib Woldegebriel

Date

07/10/2023

\$925,244.00

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

SPECIAL COVENANTS OR REMARKS

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

SPECIAL COVENANTS OR REMARKS

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.
- B. Invoices shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
- C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
- D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
- E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.
- F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

SPECIAL COVENANTS OR REMARKS

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system

SPECIAL COVENANTS OR REMARKS

of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

3. Appendix E of the Title VI Assurances (US DOT Order 1050.2A)

During the performance of this agreement, the ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractor, (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

C. Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), (prohibits discrimination on the basis of sex);

D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as

SPECIAL COVENANTS OR REMARKS

amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);

F. Airport and Airway Improvement Act of 1982, (49 U.S.C. 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);

H. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 13,539

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING THE MAYOR TO EXECUTE ALL PROGRAM SUPPLEMENTS AND OTHER DOCUMENTS REQUIRED UNDER MASTER AGREEMENT FOR ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 07-5129R WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

WHEREAS, the City Council of the City of Oxnard entered into Master Agreement No. 07-5129R dated December 12, 2007 by Resolution No. 13,378 adopted December 11, 2007 with the State of California Department of Transportation (Caltrans) for receipt of federal funds for City projects; and

WHEREAS, project-specific Program Supplements to the Master Agreement must be executed by the City of Oxnard and the State of California before the State transmits federal funds for a project.

NOW, THEREFORE, the City Council of the City of Oxnard resolves that the Mayor is hereby authorized to execute all Program Supplements and all other documents required to process projects under Master Agreement for Administering Agency-State Agreement for Federal-Aid Projects No. 07-5129R dated December 12, 2007.

PASSED AND ADOPTED THIS 22nd day of July, 2008, by the following vote:

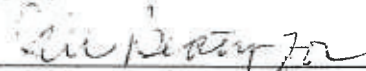
AYES: Councilmembers Holden, Maulhardt, Zaragoza, Herrera, and Flynn.

NOES: None.

ABSENT: None.


Dr. Thomas E. Holden, Mayor

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:

 07-09-08
Gary L. Gillig, City Attorney

PROGRAM SUPPLEMENT NO. N068
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 07-5129R

Adv Project ID 0715000046 **Date:** September 2, 2014
Location: 07-VEN-0-OXN
Project Number: CML-5129(086)
E.A. Number:
Locode: 5129

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 12/19/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. 13,539 approved by the Administering Agency on 7/22/2008 (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION:

IN THE NORTHEAST COMMUNITY OF CITY OF OXNARD, NORTHEAST OF THE OXNARD TRANSIT CENTER.

TYPE OF WORK: INSTALL 1.9 MILES OF CLASS II BIKE LANES, 6.3 MILES OF CLASS III BIKE LANES & IMPROVEMENTS TO 3.69 M **LENGTH:** 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	M400		LOCAL	OTHER
\$66,120.00		\$58,536.00	\$7,584.00	\$0.00

CITY OF OXNARD

By Tim Flynn
 Title Mayor
 Date 9/16/14
 Attest Daniel Martinez
Daniel Martinez City Clerk

STATE OF CALIFORNIA

Department of Transportation

By Christean P. Jensen
 Chief, Office of Project Implementation
 Division of Local Assistance
 Date 9-29-2014

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer Paul G Date 9/4/14 \$58,536.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT

Page of

DATE PREPARED:

9/3/2014

PROJECT NUMBER:

0715000046

REQUISITION NUMBER / CONTRACT NUMBER:

RQS-2660- 071500000241

FROM:

Department of Transportation

SUBJECT:

Encumbrance Document

VENDOR / LOCAL AGENCY:

CITY OF OXNARD

CONTRACT AMOUNT:

\$58,536.00

1809553

Local Assistance

[illegible]

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (915) 654-6410 or TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.

SPECIAL COVENANTS OR REMARKS

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.
2. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).
3. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

4. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
5. Any State and Federal funds that may have been encumbered for this project are

SPECIAL COVENANTS OR REMARKS

available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

6. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

7. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

Bicycle & Pedestrian Facilities

Transportation &
Drainage



Multiple
Council District(s): Citywide

Project Description:

Install Class II and Class III street bicycle lanes, bicycle detection, and pedestrian improvements including curb extensions, signage, striping and ADA improvements within the Northeast Community and along Cloyne Street.

Purpose and Need:

To improve bicyclist and pedestrian safety.



Project Funding

Funding Source Name	Previous	FY22-23	FY23-24	FY24-25	FY25-26	FY26-27
Air Pollution Buydown Fee	\$83,423	\$0				
Fed.Transport. Multiyear Grants	\$1,302,514	\$0				
TDA/LTF3-BI/PED FND-99234	\$168,250	\$0				
Traffic Safety Fund	\$100,000	\$0				
Subtotal:	\$1,654,187	\$0				

Total Estimated Cost: 1,654,187



Responsible Staff Member:

Debbie O'Leary

Title: Transportation Planner

Phone: (805) 200-5283

Email: debbie.oleary@oxnard.org

Funding Priority Level



New or Expanded Services



**CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.7.**

DATE: December 3, 2019

TO: City Council

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Award Agreement A-8184 to Huitt-Zollars for the Bicycle and Pedestrian Facilities Project.

RECOMMENDATION

That the City Council authorize the Mayor to sign and execute Agreement A-8184 in the amount of \$218,137 with Huitt-Zollars for the Bicycle and Pedestrian Facilities Project No. 133102/163101. (Public Works and Transportation Committee approved 3-0)

BACKGROUND

The Bicycle & Pedestrian Facilities project will improve bicyclist and pedestrian safety and improve connectivity within the City's bicycle and pedestrian network on approximately 16 streets in the Northeast Community (Project No. 133102) and intersections along Cloyne Street from Channel Islands Boulevard to Hueneme Road (Project No. 163101). This scope combines two projects and includes designing Class II and III bicycle facilities, bicycle detection, curb extensions, sidewalks, signage and striping. Preliminary engineering work has been partially completed for the Northeast Community streets and will be updated to incorporate work along Cloyne Street. Combining two projects improves the economy of scale for both the design and construction phases.

Bikeway types are identified in the City's Bicycle & Pedestrian Facilities Master Plan (Plan). See attachment number 5. The Plan refers to the Caltrans Highway Design Manual, which currently defines bikeway types as follows:

Class I Bikeway (Bike Path): Provides a completely separated facility for the exclusive use of bicycles and pedestrians with crossflow by vehicles minimized.

Class II Bikeway (Bike Lane): Provides a striped lane for one-way bike travel on a street or highway.

Class III Bikeway (Bike Route): Provides for shared use with pedestrian or motor vehicle traffic.

Class IV Bikeway (Separated Bikeway): Provides for the exclusive use of bicycles and includes a separation (e.g., grade separation, flexible posts, inflexible physical barriers, or on-street parking) required between the separated bikeway and the through vehicular traffic. (New classification, not included in the 2011 Bicycle & Pedestrian Facilities Master Plan).

DISCUSSION

The Project was included in the 2019-2024 Five Year Capital Improvement Program and was advertised for consultants to prepare Plans, Specifications & Estimates (PS&E) on July 15, 2019 with proposals due on August 14, 2019. The City received three proposals and Staff that consisted of the Project Manager, Traffic Engineer, and City Engineer evaluated for completeness, qualifications & experience, organization & approach, scope of services, schedule of work, conflict of

interest, and references. Huitt-Zollars was selected as the most qualified consultant. The total estimated contract is \$218,137 and requires City Council approval.

The Project is funded in part by a \$58,536 federal Congestion Mitigation Air Quality (CMAQ) grant (Fund 275), two regional Transportation Development Act (TDA) Article 3 grants for \$75,000 and \$93,250 (Fund 214), \$100,000 from the Traffic Safety Fund (Fund 182) and \$83,423 of Air Pollution Buydown Fee (Fund 118). The project qualified for Air Pollution Buydown Fees pursuant to the City's intent to implement reasonable available transportation control measures from the Ventura County Air Quality Management Plan. Total expenditures to date are \$98,599 and there is sufficient funding remaining for the contract amount.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to establish, preserve and improve our infrastructure and natural resources through effective planning, prioritization, and efficient use of available funding. This item supports the following goals and objectives:

Goal 4. Ensure proper construction and maintenance of infrastructure to provide maximum benefit with lowest life cycle cost following CIP plans.

FINANCIAL IMPACT

There is sufficient funding available in Capital Improvement Projects: Bike Facilities NE Plan (Project No. 133102) and Cloyne St Bike & Pedestrian Improvement (Project No. 163101) to award the contract. Funding of the contract in the amount of \$218,137 is from the following sources: \$60,263 from Air Pollution Buydown Fee (Fund 118), \$9,542 from Traffic Safety Fund (Fund 182), \$141,584 from Transportation Development Act (Fund 214), and \$6,748 from Federal Transportation CMAQ Grant (Fund 275). Detailed funding of the contract amount, contingency and estimated staff time per project is as follows:

Fund	Project Number	FY19-20 Balance Available	Contract A-8184	Contingency	Staff Time Project Management
275 – Federal Transportation Grant	133102	\$969,377	\$6,748	\$0	
118 – Air Pollution Buydown	133102	\$67,011	\$60,263	\$0	\$6,748
214 - TDA	133102	\$69,378	\$69,378	\$0	
214 - TDA	163101	\$72,206	\$72,206	\$0	
182 – Traffic Safety Fund	163101	\$97,336	\$9,542	\$21,813	\$15,065
Total			\$218,137	\$21,813	\$21,813

COMMITTEE OUTCOME

The Public Works and Transportation Committee voted 3-0 on November 12, 2019 to approve staff recommendation and to forward the item for Council approval.

Prepared by: Debbie O'Leary, Transportation Planner

ATTACHMENTS

1. Huitt-Zollars - A-8184 PW 17-36 - 10.24.19
2. Huitt-Zollars Cost Proposal rev.2
3. Northeast Community Project Location rev.2

4. Cloyne Street Project Location rev.2
5. City of Oxnard Bicycle & Pedestrian Facilities Master Plan Bikeway Types

EXHIBIT G

FHWA-1273 – Revised October 23, 2023 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment

Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. Conformance. (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. Fringe benefits not expressed as an hourly rate.

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. Withholding requirements. The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access (1) Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its repurchase costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

- 2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

- 4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

- 1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.
- 2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

- 3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

(5) **ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS** (23 CFR 633, Subpart B, Appendix B)
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Bond No. _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to Toro Enterprises, Inc., 2101 Ventura Blvd., Oxnard, CA 93036 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as BICYCLE AND PEDESTRIAN FACILITIES NORTHEAST COMMUNITIES AND CLOYNE STREET, SPECIFICATION NO. PW 24-53.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of One Million, Six Hundred Forty-Five Thousand, Four Hundred Ninety & 25/100 Dollars (\$1,645,490.25), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

Toro Enterprises, Inc.
2101 Ventura Bl
Oxnard, CA 93036

By: _____

Its: _____

“Surety”

By: _____

Its: _____

By: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to Toro Enterprises, Inc.,
2101 Ventura Blvd, Oxnard, CA 93036 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as BICYCLE AND PEDESTRIAN FACILITIES
NORTHEAST COMMUNITIES AND CLOYNE STREET, SPECIFICATION NO. PW 24-53.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful
performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are
held and firmly bound unto the Agency in the penal sum of One Million, Six Hundred Forty-Five
Thousand, Four Hundred Ninety & 25/100 Dollars (\$1,645,490.25), this amount being not less
than one hundred percent (100%) of the total Contract Price in lawful money of the United States
of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs,
assignees, successors, executors and administrators, jointly and severally, firmly by these
presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his,
her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and
abide by, and well and truly keep and perform the covenants, conditions and provisions in the
Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept
and performed at the time and in the manner therein specified, and in all respects according to
their true intent and meaning, and shall indemnify and save harmless the Agency, its officers,
agents and employees, as therein stipulated, then this obligation shall become null and void one
(1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall
be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor,
there shall be included costs and reasonable expenses and fees, including reasonable attorneys'
fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and
included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of
repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition
to the terms of the Contract, including all incorporated documents, or of the Work to be performed
thereunder or the Specifications accompanying the same shall in any way affect the Surety's
obligations under this Bond. The Surety hereby waives notice of any such change, extension of
time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

Toro Enterprises, Inc.
2101 Ventura Bl
Oxnard, CA 93036

By: _____

Its: _____

“Surety”

By: _____

Its: _____

By: _____

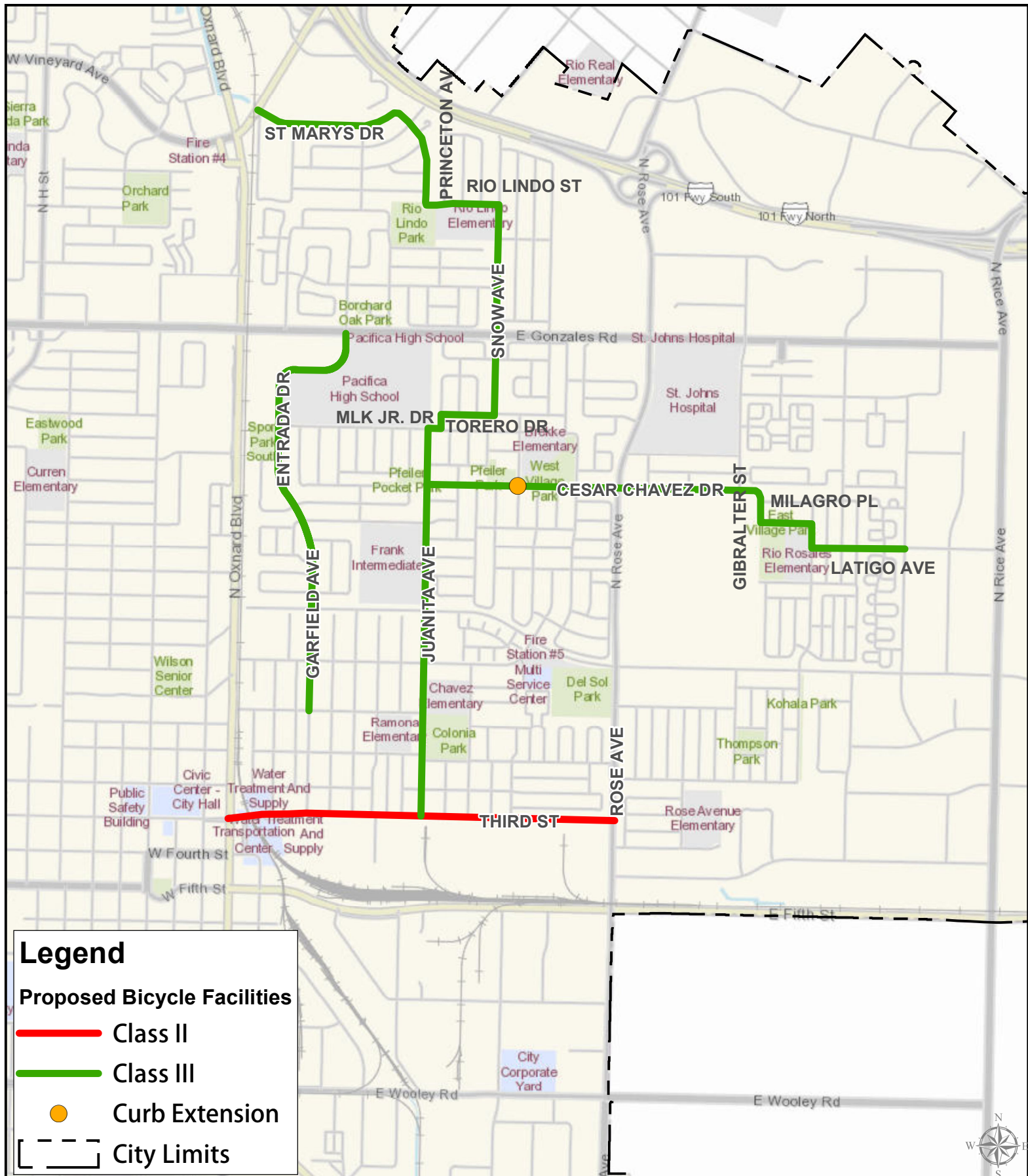
Its: _____

(Seal)

(Seal)

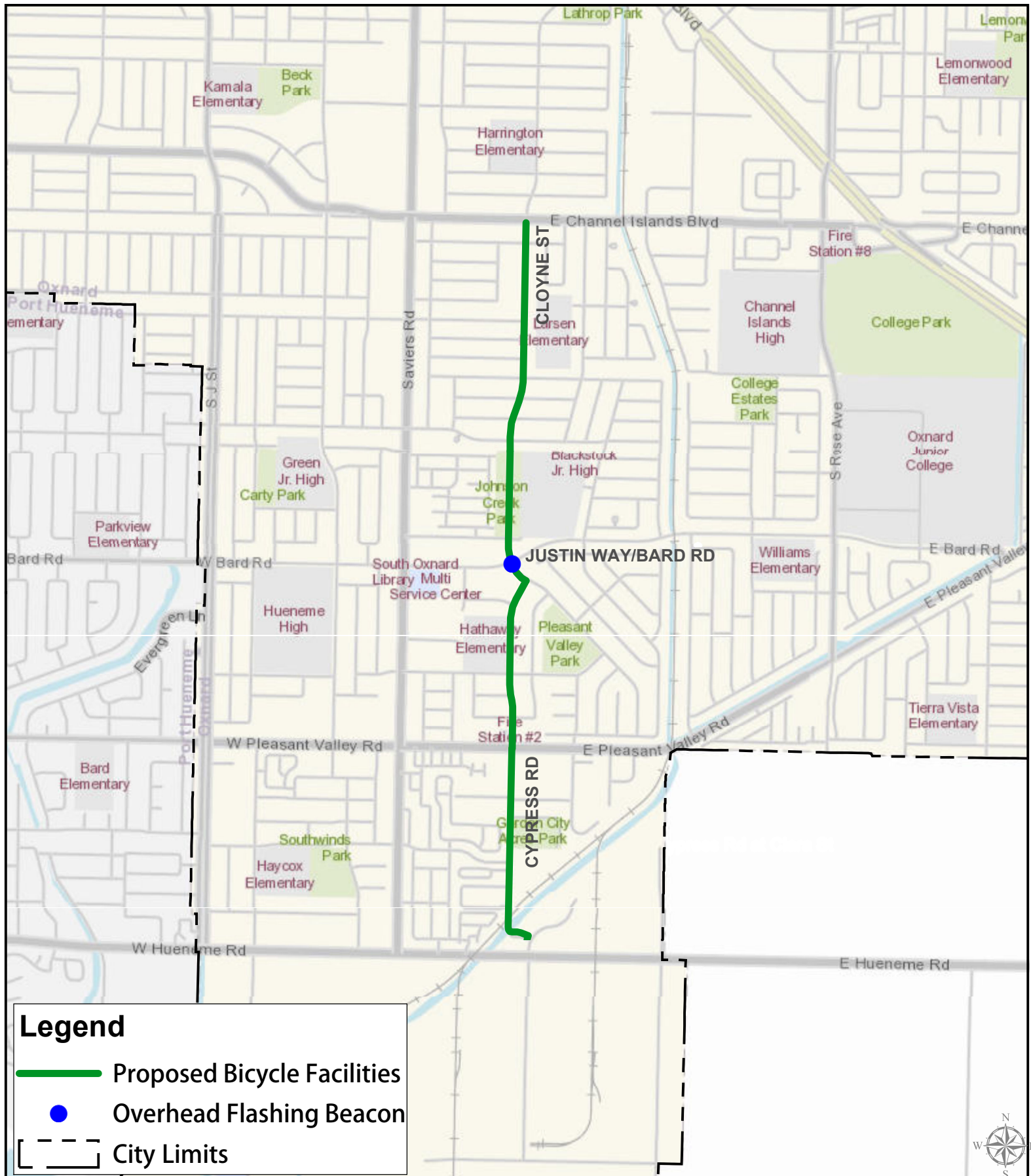
Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

BICYCLE & PEDESTRIAN FACILITIES (PW24-53) NORTHEAST COMMUNITY PROJECT LOCATION



BICYCLE & PEDESTRIAN FACILITIES (PW24-53)

CLOYNE STREET PROJECT LOCATION



Specification No.: Project Name: Length/Location: Bid Opening Date: Number of Bids:				PW 24-53 Northeast/Cloyne 8.3 miles 2024 December 1 Bidder		PW 21-34R Etting Road .41 mile 2023 August 1 Bidder		PW 22-87 Safe Routes to School 26 intersections Citywide 2024 April 2 Bidders			
BID ITEM	DESCRIPTION	UNIT	NORTHEAST & CLOYNE ESTIMATE	QTY	BID 1	QTY	BID 1	QTY	BID 1	BID 2	CONCLUSION
25	New Sign on Existing Post	EA	\$300.00	26	\$200.00	1	\$275.00	0	0	0	Lower cost
28	Relocate Signs	EA	\$300.00	6	\$55.00	3	\$250.00	19	\$260.00	\$130.00	Lower cost
35	Detectable Warning Surface Tiles	SF	\$54.00	172	\$50.00	56	\$53.00	1110	\$50.00	\$53.00	Lower cost
3	Double Yellow Center Line	LF	\$3.50	2994	\$2.55	1443	\$2.10	0	0.00	0.00	Within Comparables
4	Double Yellow Center Line/Raised Marker	LF	\$3.75	2883	\$3.15	0	0	510	\$3.00	\$2.00	Within Comparables
33	Sidewalk and ADA Ramps	SF	\$18.00	1865	\$20.00	295	\$37.00	9190	\$15.15	\$28.00	Within Comparables
38	Adjust Manhole to Grade	EA	\$2,750.00	1	\$2,875.00	3	\$2,500.00	8	\$2,300.00	\$1,200.00	Within Comparables
15	Pavement Parking Limit Line	LF	\$3.60	245	\$11.85	0	0	830	\$7.00	\$4.30	High, consider quantity
34	PCC Curb and Gutter	LF	\$95.00	184	\$175.00	1472	\$49.00	770	\$99.00	\$76.00	High, consider quantity
22	Green Bicycle Striping	SF	\$7.50	7506	\$12.70	936	\$9.65	0	0	0	Higher cost
13	Pavement Marking Stop	EA	\$300.00	19	\$385.00	0	0	50	\$220.00	\$300.00	Higher cost

Agreement 32500373 with Toro Enterprises, Inc.
for Bicycle and Pedestrian Facilities Northeast
Communities and Cloyne Street Project,
Specification No. PW 24-53,
Federal Project No. CML-5129(086)

City Council
March 4, 2025

Miguel Guillen
Associate Engineer

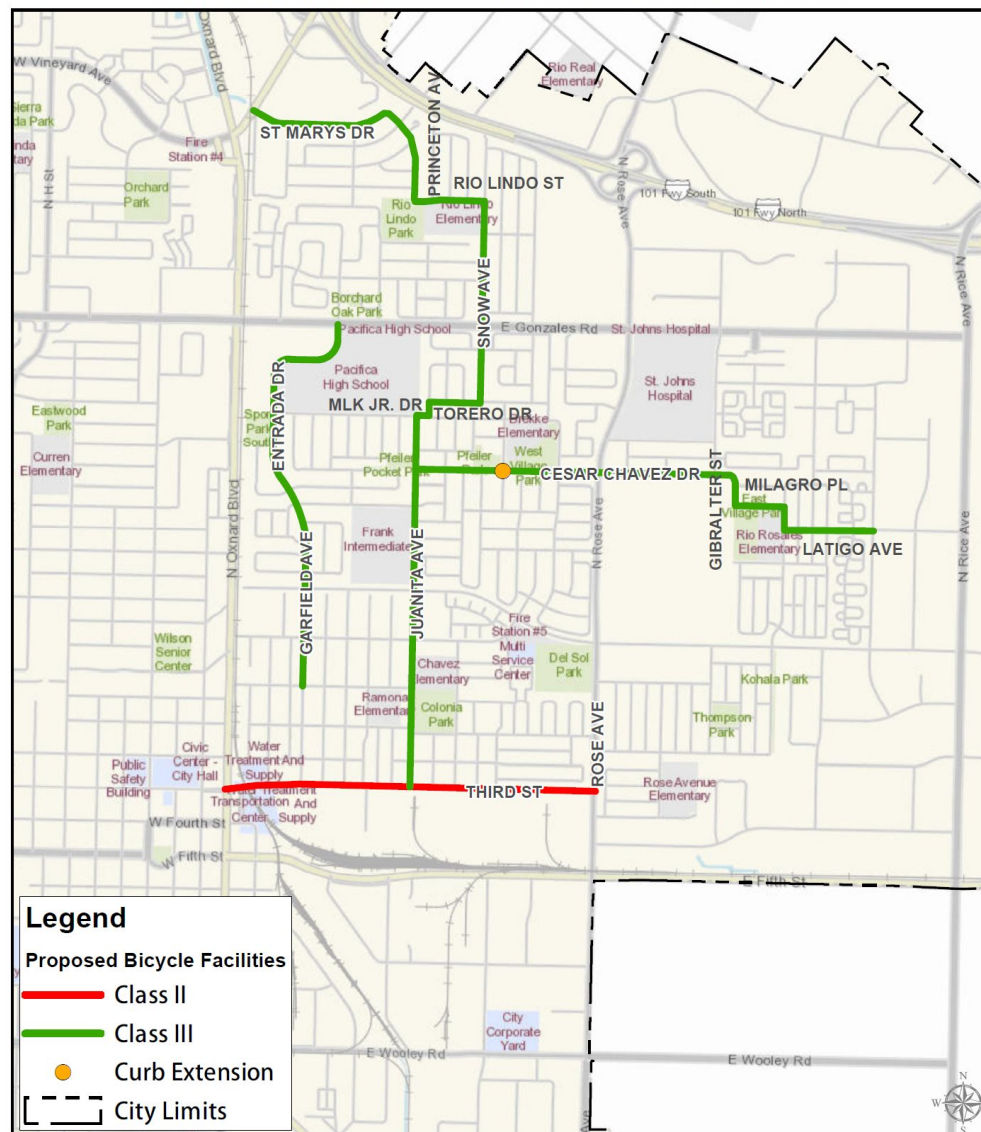
That the City Council approve and authorize:

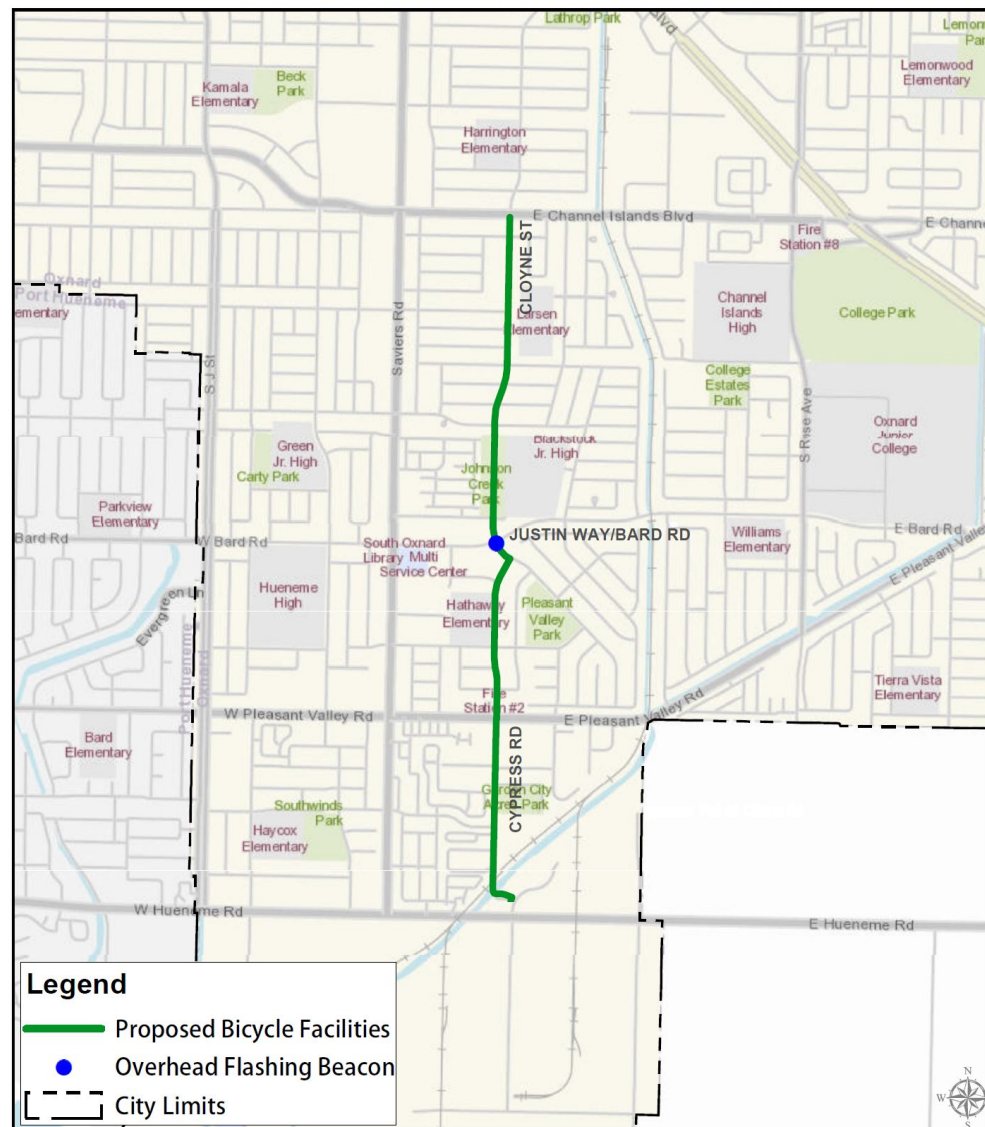
1. A total of \$1,974,588.25 in Project funds for the Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, Federal Project No. CML-5129(086);
2. The Mayor to execute an Agreement with Toro Enterprises, Inc. in the amount of \$1,645,490.25 for the Project and approve a Project contingency amount of \$164,549, (approximately 10%) with Toro Enterprises, Inc. for a total not-to-exceed value of \$1,810,039.25 for the Project;
3. A Project allocation amount of \$164,549 (approximately 10%) for engineering, inspection, survey and project management for the Project; and
4. A total amount of budget appropriations of \$1,020,244.31 consisting of \$627,906.42 from the Circulation System Improvement Fee Fund (Fund 350, Subfund 8040) available fund balance for the Northeast Communities Project C1302, and \$392,337.89 from the Mobility Fee Fund (Fund 350, Subfund 8055) available fund balance for the Cloyne Street Project C1601 as well as the corresponding Capital Outlay Fund (301) appropriation increase in the same amounts.

The Bicycle & Pedestrian Facilities project (Project) combines the Northeast Community Project (Project No. CI302) and Cloyne Street Project (Project No. CI601).

The improvements are located on approximately 6.5 miles of neighborhood streets in the Northeast Communities and approximately 1.8 miles on Cloyne Street and Cypress Avenue between Channel Islands Boulevard and Hueneme Road.

The roadways were selected to connect neighborhoods with the City's bicycle network. Locations were also included in the concept projects identified in Chapter 6 of the City's Bicycle & Pedestrian Master Plan (BPMP). See the attached location map for a full list of roadways.





6.5 Project Sheets

Concept designs were developed for five bicycle and five pedestrian projects selected by the City.

Bicycle Project 2: Bicycle Boulevard on Snow Avenue – Juanita Avenue from Vineyard Avenue to 3rd Street

Description of Area and Issues

Snow Avenue and Juanita Avenue are residential roads that run north-south through Oxnard with speed limits of 25 miles per hour. They connect the surrounding neighborhoods to five schools, several parks, and areas of employment to the south. The proposed bicycle boulevard on Snow Avenue – Juanita Ave will connect to existing bikeways on Gonzales Road and Camino del Sol. Wayfinding signs will direct bicyclists to and through the bicycle boulevard. Existing traffic circles and additional traffic calming around schools will keep vehicle speeds low to enhance the bicycling environment. Intersection crossing treatments will guide bicyclists through the intersection of Snow Avenue and Gonzales Road, minimizing potential conflicts with vehicles.

Improvement Recommendations

- Wayfinding Signs
- Bicycle Signal Detection
- Intersection Crossing Treatment
- Traffic Calming – Speed Humps

Cost Estimate (excluding bike detection):
\$110,000



Site Photo: Juanita Avenue



Wayfinding signage will help bicyclists navigate through the neighborhoods to access the bicycle boulevard.

Design Guidelines & Standards

Bicycle Boulevards 1.4.4- 1.4.8
Signalization (Video Detectors) 1.5

The notice inviting formal bids (NIFB) was published on October 31, 2024, and all bids were due and opened December 10, 2024. The City received the following bid:

TORO Enterprises, Inc: \$ 1,645,490.25

The sole bidder is TORO ENTERPRISES, INC. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR).

The cost estimate for the subject contract was \$1.1 million, whereas the bid is \$1.6 million. This trend is statewide. At the California Transportation Commission's 2024 Project Delivery Workshop, Caltrans reported that their estimating tool, which is used by the City's designers, fell far short as compared to the actual National Highway Construction Cost Index. Over the past three fiscal years, bids increased 64% over Caltrans' estimates.

Public Works Staff reached out to the other six plan holders to understand why they chose not to bid. The responses included:

- lack of competitive bids from subcontractors
- contractor did not wish to bid against a former employer
- two bid as subcontractors
- two did not respond to our request for information

The bidding environment has been challenging for many reasons, which include:

- high demand due in part to an influx of grant funding from:
 - Senate Bill 1
 - Infrastructure Investment and Jobs Act
 - American Rescue Plan Act
- Skilled labor shortages
- Equipment shortages
- Inflation impacts are also factors

There has been a trend of single bidders for the City's grant-funded transportation projects since 2022, as shown below.

2022-PW 18-48	Ventura Boulevard Sidewalk	Single bidder
2022-PW 18-61	Mandalay Bay and Edison Canal Bridge Rehab	Single bidder
2022-PW 19-97	Oxnard & Saviers Traffic Signal Improvements	Single bidder
2022-PW 22-87	Safe Routes to School Infrastructure	Two (2) bidders
2023-PW 21-34	Etting Road Sidewalk and Bicycle Lane	Single bidder
2023-PW 21-34R *Re-bid	Etting Road Sidewalk and Bicycle Lane	Single bidder
2024-PW 24-53	Northeast Communities & Cloyne Project	Single bidder

*The City down-scoped and re-bid the Etting Road project in an attempt to reduce cost and solicit additional bidders. The re-bid process delayed the project by seven (7) months, and it did not result in additional bidders.

Staff analyzed the bid item costs by comparing similar grant-funded transportation awards. An apple to apple comparison is difficult as each project has unique factors that impact pricing, such as:

- quantities
- material specifications
- location (Citywide vs. single street)
- type of roadway (residential vs. arterials)
- time of year (curing temperature for pavement work)
- availability of equipment
- evolving market changes

Staff were able to identify 11 comparable bid items from projects awarded in August 2023 and April 2024. Of the 11 projects, more than half were comparable or lower than prior bids.

Considering these factors, and with the support of Caltrans through an approved Cost-Effectiveness/Public Interest Finding, staff recommends that the City Council award the contract for this Project to Toro Enterprises, Inc. In addition to the contract award amount of \$1,645,490.25, staff recommends authorizing \$329,098 for the following:

- \$164,549 for project contingency (approximately 10% of the contract cost)
- \$164,549 for engineering services and City Labor (approximately 10% of the contract cost)

Engineering services include: engineering, inspection, survey, labor compliance, and project management.

In order to allow the project to move forward to construction and not return the grant funding, Staff is requesting additional appropriations as described in the Financial Impact.

The total cost for this Project shall not exceed \$1,974,588.25 which includes the construction agreement, contingency, construction management, and project allocation. The Bicycle and Pedestrian Facilities Northeast Communities and Cloyne Street Project, Specification No. PW 24-53, is funded with two project account numbers.

Northeast Communities, Project CI302, has an available budget balance of \$865,620.40 from the Federal Transportation Grant Fund (200) and \$9,912.43 from the State Transportation Grant Fund (212). Staff is requesting a budget appropriation of \$627,906.42 from Circulation System Improvement Fee Fund (Fund 350, Subfund 8040) available fund balance for Project CI302.

(continued on next page)

Cloyne Street, Project C1601, has an available budget balance of \$30,849.07 from the State Transportation Grant Fund (212) and \$47,962.04 from the Traffic Safety Fund (182). Staff is requesting a budget appropriation of \$392,337.89 from the Mobility Fee Fund (Fund 350, Subfund 8055) available fund balance for Project C1601.

There are no other current transportation projects with budgetary shortfalls that would utilize the Circulation System Improvement Fee Fund (350) or Mobility Fee Fund (350). Based upon the amount of traffic control devices and pavement markings already installed throughout the City that are similar to the proposed overhead beacon and pavement markings to be added with this project, the ongoing maintenance cost for this project will be nominal to the annual Traffic Engineering Operating budget. New striping and pavement markings will be maintained in combination with street resurfacing and the overhead flashing beacon is solar powered with a minimum 15-year LED lifespan.



QUESTIONS